

Student Loan Scheme Amendment Bill

Government Bill

As reported from the Social Services Committee

Commentary

Recommendation

The Social Services Committee has examined the Student Loan Scheme Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

The aim of the Student Loan Scheme Amendment Bill (the bill) is to remove interest on student loans for full-year, full-time students, and for part-time and part-year students (if their income is \$24,596 or less), while they are studying. This will be achieved by way of an interest write-off by the Inland Revenue Department (IRD) after the end of each income year in which a borrower qualifies for the write-off. This change is intended to address the issue of debt escalation while students are studying.

In addition, the bill seeks to reduce the repayment period of borrowers with low income relative to their debt. Any compulsory repayments made by borrowers will be divided in half. The first half will be credited to the base interest charged (the total interest, less the CPI component) and any base interest over this amount will be written off. If half the compulsory repayment obligation is greater than the base interest charged, the excess will be credited to the CPI

component (currently 0.9 percent) and then to the principal. The other half will be credited first to the CPI component and then to the principal. If this second half of the compulsory repayment obligation is insufficient to meet the CPI component, the difference will be added to the principal. This change will accelerate repayment of principal and therefore reduce the length of time that it will take for borrowers to repay their loans.

Submitters' concerns

We received six submissions from the following people and organisations:

- Aotearoa Tertiary Students' Association and the New Zealand University Students' Association
- Auckland City Council
- Catholic Women's League of New Zealand Inc
- David G Chamberlain
- National Council of Women of New Zealand
- University of Canterbury Students' Association

All of these submissions were generally supportive of the bill. However, they did recommend some changes to some aspects.

Interest charged on loans

Two submitters suggest that changes should be made retrospective in the case of students who are nearing the end of their studies and those who have gone overseas. The Catholic Women's League argues that the interest rate for those above the income threshold should be graduated.

We do not believe that the provisions in this bill should apply retrospectively to those groups of borrowers as that would be unfair to other students. Different tax bases and income levels in other countries may make it inequitable to base an interest write-off on the income of students overseas. We also do not believe the interest rate should be graduated. The effect of the changes in this bill is that most borrowers will pay less than the full interest. We are confident that this is similar in effect to a graduated interest provision.

Increasing the repayment threshold

The Catholic Women's League recommends that the income threshold at which loan repayments commence (currently \$14,768) should be significantly raised.

We believe that significantly raising the repayment threshold would increase repayment times. The repayment threshold is aligned to the amount of the domestic purposes benefit payable to a person with two or more children. The level of the threshold is designed to ensure that borrowers have sufficient income to meet their basic needs before they are required to start repaying their loans. To raise the threshold would counteract the intention of the bill to reduce repayment times.

Lowering levels of debt

The submitters are concerned at the level of debt that young people are incurring, and they suggest various ways in which it might be alleviated. For instance, they propose that employers, who gain from a highly skilled workforce, should share some of the burden; that student fees should be reduced; and that a bonding scheme or dollar-for-dollar repayment system should be introduced. The University of Canterbury Students' Association also argues that the impact of the student loan scheme should be investigated and that comprehensive forecasting of long-term outcomes should be immediately undertaken.

All of these suggestions are outside the scope of the bill. However, we note that the Education and Science Committee is conducting an inquiry into tertiary resourcing. We are confident that the suggestions raised by submitters will be considered during the course of that inquiry.

Information-matching programmes

The processes for information-matching programmes

The new interest write-off provisions will require information-matching programmes between tertiary providers, the Ministry of Education (the ministry) and the IRD. This is required to validate students' study status before the IRD applies the full interest write-off to borrowers' accounts. These programmes for information matching have only just been finalised, in consultation with the Privacy Commissioner. They were not included in the bill when it was introduced.

It is necessary to have two different processes for information matching; one is mainly an interim process, while the other is the permanent process. The permanent process is that students will be asked to provide their IRD number at enrolment. Their IRD number, date of birth and study status will be sent by tertiary providers to the ministry. The ministry will send that information on to the IRD, which will update its client records to record the study status advised by the ministry.

An interim process is necessary for the 2000/01 income year because the policy was finalised too late to ask students at enrolment to provide their IRD number. It will remain in place in the 2001/02 income year. It will also apply in subsequent years for those borrowers who do not supply their IRD number at the time of enrolment or in cases where there is a mismatch of information. Under this interim process, the IRD will seek certain information from students and this will be sent to the ministry for matching. A unique identifying number, created from the student's identification number and that of the tertiary provider, will be used to match the information.

Recommended amendments

To make these programmes possible we recommend several amendments to the bill. We recommend that a new clause 10A be inserted, which will amend section 62 of the Student Loan Scheme Act 1992, to enable the disclosure of information between tertiary providers, the ministry and the IRD.

We recommend that a new Part 2 be inserted. This new Part 2 will amend the Tax Administration Act 1994 and the Third Schedule of the Privacy Act 1993 for the most part to provide for information to be given by the ministry to the IRD for the purpose of verifying borrowers' entitlement to a full interest write-off. The creation of a new Part 2 in the bill, which was introduced with no Parts, requires the insertion of a new Part 1 heading above clause 3. Part 1 will contain the amendments to the Student Loan Scheme Act 1992.

Finally, we recommend the inclusion of a new clause 14 in the new Part 2. The amendment enables income statements to be issued to both part-time and part-year students who are entitled to a full interest write-off. Such statements are required to verify students' income. The inclusion of this new clause 14 requires a consequential amendment to clause 3, to provide that new clause 14 applies in respect of the income year commencing on 1 April 2000, and subsequent years.

Concern of some members

National and Act members believe that the removal of interest on loans while studying will result in an increase in student debt, because removing interest makes borrowing more attractive and creates incentives to borrow unnecessarily.

The other members of the committee do not support this view, because there is no evidence that this has occurred.

Appendix

Committee process

The Student Loan Scheme Amendment Bill was referred to the committee on 25 July 2000. The closing date for submissions was 8 September 2000. We received and considered six submissions from interested groups and individuals. We heard three submissions, which included holding hearings in Auckland. Hearing evidence took 46 minutes and consideration took 45 minutes.

We received advice from the Inland Revenue Department, the Ministry of Education and the Department of Work and Income.

Committee membership

Taito Phillip Field (Chairperson)
Mahara Okeroa (Deputy Chairperson)
Sue Bradford
Helen Duncan
Dr Liz Gordon
Dr Muriel Newman
Jill Pettis
Katherine Rich
Bob Simcock
Belinda Vernon

Key to symbols used in reprinted bill**As reported from a select committee****Struck out (majority)**

[Subject to this Act, **]**

Text struck out by a majority

New (majority)

[Subject to this Act, **]**

Text inserted by a majority

<Subject to this Act,>

Words struck out by a majority

<Subject to this Act,>

Words inserted by a majority

Hon Dr Michael Cullen

Student Loan Scheme Amendment Bill

Government 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.

New (majority)

Part 1 Amendments to principal Act

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Struck out (majority)

- 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.

New (majority)

- 3 **Sections 4 to 11 and 14 apply on and from 2000/01 income year**
Sections 4 to 11 and 14 apply in respect of the income year commencing on 1 April 2000, and subsequent income years.

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4 Interpretation

- (1) Section 2 of the principal Act is amended by inserting, in its appropriate alphabetical order, the following definition:

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“**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”.

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5 Repayment obligation for borrowers who are non-resident for part of income year

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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: 5

$$\$24,596 \times \frac{d}{365}$$

where d is the number of days in the period that the borrower is or was a resident.” 10

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: 15

“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,— 20

“(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. 25

“(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 30

“(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 35

“(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**.
- “**38C Amount of full interest write-off** 5
 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
- “(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. 10
- “**38D Conditions for full-interest write-off** 15
- “(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
- “(b) in respect of a period for which the borrower is or was a resident; and 20
- “(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. 25
- “(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. 30

“Base interest write-off

- “39 **Base interest write-off where income below repayment threshold**
- “(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 5
- “(b) the borrower is not entitled to an interest write-off under **section 38A or section 38B**.
- “(2) When this section applies, the following amounts of interest must be reduced to zero: 10
- “(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
- “(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. 15
- “(3) This section is subject to **section 41**.
- “(4) **Subsection (2)** is subject to **section 12 of the Student Loan Scheme Amendment Act 2000**. 20

“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— 25
- “(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**. 30
- “(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: 35

- “(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: 5
- “(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. 10
- “(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** 15
- 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.” 20
- 7 **New section 50 substituted**
- The principal Act is amended by repealing section 50, and substituting the following section: 25
- “50 **Priority of payments**
- “(1) Fifty percent of any payment in respect of a repayment obligation must be off-set—
- “(a) first, against any interest adjustment interest charged; and 30
- “(b) secondly, against any principal outstanding.
- “(2) The other 50% of the payment must be off-set—
- “(a) first, against any base interest charged; and
- “(b) secondly, against any interest adjustment interest charged; and 35
- “(c) thirdly, against any principal outstanding.”

- 8 New section 55 substituted**
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 5**
- “(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—
- “(a) has, in accordance with section 54, refrained from collecting all or part of the borrower’s repayment obligation; and 10
- “(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 15
- “(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. 20
- “(2) This section applies—
- “(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.” 25
- 9 New section 59 substituted**
The principal Act is amended by repealing section 59, and substituting the following section:
- “59 Appropriation of refunds 30**
- 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.”
- 10 Changes in balance dates producing income year other than 12 months 35**
- 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: 5

$$\$24,596 \times \frac{b}{365}.$$

New (majority)

10A Disclosure of information

(1) Section 62 of the principal Act is amended by inserting, after subsection (1), the following subsection:

“(1A) For the purposes of **subsection (2)(ab)** and section 81(4)(g) of the Tax Administration Act 1994, **authorised person** includes the Secretary of Education, or any officer of the Ministry of Education who is authorised by the Secretary of Education to disclose or receive information under this section.” 10 15

(2) Section 62(2) of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

“(ab) an authorised person from disclosing to another authorised person the information specified in **subsection (2AA)** for the purpose of enabling the Commissioner to determine a borrower’s entitlement to a full interest write-off under **section 38A or section 38B**; or”. 20

(3) Section 62 of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2AA) For the purposes of **subsection (2)(ab)**, the information that may be disclosed is— 25

“(a) the borrower’s name, date of birth, and student identification number:

“(b) the duration of the course or courses of study undertaken by the borrower, and the percentage of equivalent full-time study of the course or courses (as determined in accordance with the formula used for the purposes of the Education Act 1989): 30

“(c) whether the borrower completed the course or courses of study and, if not, whether the borrower received a refund of all or part of his or her tuition fee: 35

“(d) the identification number of the provider of the course or courses of study undertaken by the borrower:

New (majority)

- “(e) the tax file number of the borrower:
“(f) any other particulars that the Commissioner considers relevant to the purposes of **subsection (2)(ab)**.”

11 Regulations

- (1) Section 87(1) of the principal Act is amended by inserting, 5
after paragraph (b), the following paragraph:
“(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, 10
after the words “or subsection (1)(b)”, the words “or **subsection (1)(ba)**”.

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— 15
- (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 20
student loan contract entered into before 1 January 2000.

New (majority)

**Part 2
Amendments to other Acts**

Amendments to Tax Administration Act 1994 25

13 Tax Administration Act 1994 called principal Act in sections 14 to 16

In **sections 14 to 16**, the Tax Administration Act 1994² is called “the principal Act”.

² 1994 No 166 30

New (majority)

14 Annual income tax returns not required

Section 33A(1) of the principal Act is amended by repealing paragraphs (g) and (h), and substituting the following paragraphs:

- “(g) is a person who, in an income year, has a nil IRD loan balance on the last day of the year; and 5
- “(h) is not eligible to receive a full interest write-off under **section 38B** of the Student Loan Scheme Act 1992; and
- “(i) is not eligible to receive a base interest write-off or reduction under **section 39 or section 40** of the Student Loan Scheme Act 1992.” 10

15 Officers to maintain secrecy

Section 81(4)(g) of the principal Act is amended by inserting, after the expression “subsection (2)”, the expression “, (2AA),” . 15

16 New section 85B inserted

The principal Act is amended by inserting, after section 85A, the following section:

- “85B Ministry of Education to provide information as to study status of student loan borrowers 20**
- “(1) The purpose of this section is to facilitate the exchange of information between the Ministry and the Department for the purpose of verifying borrowers’ entitlements to a full interest write-off under **sections 38A and 38B** of the Student Loan Scheme Act 1992. 25
- “(2) For the purpose of this section, the Secretary of Education, or any authorised officer of the Ministry, must,—
- “(a) no later than the seventh working day in April in each year, provide the Commissioner with such of the information specified in **subsection (3)** that is requested by the Commissioner in respect of each borrower who has undertaken a course of study during a period that ended during the immediately preceding income year; and 30
- “(b) within 7 working days of a request by the Commissioner, provide the Commissioner with such of the 35

New (majority)

information specified in **subsection (3)** that is requested by the Commissioner in respect of any particular borrower who has undertaken a course of study.

- “(3) For the purposes of **subsection (2)**, the information that may be provided is— 5
- “(a) the name, student identification number, and date of birth of the borrower:
- “(b) the duration of the course or courses of study undertaken by the borrower, and the percentage of equivalent full-time study of the course or courses (as determined in accordance with the formula used for the purposes of the Education Act 1989): 10
- “(c) whether the borrower completed the course or courses of study and, if not, whether the borrower received a refund of all or part of his or her tuition fee: 15
- “(d) the identification number of the provider of the course or courses of study undertaken by the borrower:
- “(e) the tax file number of the borrower (if known):
- “(f) any other particulars that the Commissioner considers relevant to the purpose of this section. 20
- “(4) On receiving information from the Ministry under this section, the Commissioner may cause a comparison of the information to be made with the information held by the Commissioner that relates to that borrower in order to determine whether he or she is entitled to a full interest write-off under **section 38A or section 38B** of the Student Loan Scheme Act 1992. 25
- “(5) Despite section 81, access by a borrower to information in respect of that borrower provided to the Commissioner by the Ministry is governed by the provisions of the Privacy Act 1993. 30
- “(6) In this section,—
- “**authorised officer of the Ministry** means an officer of the Ministry who is authorised by the Secretary of Education to provide information under this section 35
- “**borrower** has the meaning given to it by section 2 of the Student Loan Scheme Act 1992

New (majority)

“**Ministry** means the Ministry of Education.”

Amendment to Privacy Act 1993

17 Third Schedule of Privacy Act 1993 amended

The Third Schedule of the Privacy Act 1993³ is amended by omitting, from the second column of the item relating to the Tax Administration Act 1994, the expression “and 85A”, and substituting the expression “85A, and **85B**”. 5

³ 1993 No 28

Student Loan Scheme Amendment

Legislative history

13 June 2000

Introduction (Bill 38-1)

25 July 2000

First reading and referral to Social Services Committee
