

# **Student Loan Scheme Amendment Act 1997**

Public Act 1997 No 79  
Date of assent 23 September 1997

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## **An Act to amend the Student Loan Scheme Act 1992**

**BE IT ENACTED** by the Parliament of New Zealand as follows:

### **1 Short Title**

This Act may be cited as the Student Loan Scheme Amendment Act 1997, and is part of the Student Loan Scheme Act 1992 (**the principal Act**).

## **2 Interim repayments to be paid in same manner as provisional tax**

Section 28 of the principal Act is amended by:

- (a) Inserting, in subsection (2), after the words “Income Tax Act 1994”, the words “and of the Tax Administration Act 1994”;
- (b) Omitting from paragraph (a) of subsection (3) the expression “(1)” and substituting the expression “(1)(a)”;
- (c) Omitting from paragraph (a) of subsection (3) the expression “LD 6”, and substituting the expression “LD 7”;
- (d) Omitting from paragraph (b) of subsection (3) the expression “MB 5”, and substituting the expression “MB 2(1)(b)”.

## **3 Payment of terminal repayment obligation**

Section 30 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) A terminal repayment obligation not previously due and payable is due and payable on—
- “(a) The 7th day of the month specified in Schedule 13 Part A of the Income Tax Act 1994, unless the month is January; and
  - “(b) The 15th day of January, where January is the month specified in Schedule 13 Part A of the Income Tax Act 1994.”.

## **4 Application of penalty clause in loan contract**

Section 44(1) of the principal Act (as substituted by section 6 of the Student Loan Scheme Amendment Act 1996) is amended by adding the following paragraph:

- “(e) Any underestimation penalty imposed under section 44A.”.

## **5 Underestimation penalty where interim repayments underestimated as at final instalment date**

The principal Act is amended by inserting, after section 44 (as so substituted), the following section:

**“44A**

If, at the due date for payment of the third instalment, a periodic payer has estimated the repayment obligation and—

“(a) The estimate applying at the third instalment date is less than 80% of the periodic payer’s repayment obligation and is less than the periodic payer’s repayment obligation would have been had the periodic payer not estimated; and

“(b) The amount of interim repayments made on or before the third instalment date is less than 80% of the periodic payer’s repayment obligation for the income year—the person (subject to subsection (3)) is liable to pay to the Commissioner, by way of penalty, an amount calculated in accordance with subsection (2).”.

“(2) In relation to any income year, the amount of underestimation penalty payable under this section is an amount calculated in accordance with the following formula:

$$(a - b) \times 10\%$$

where—

a is the periodic payer’s repayment obligation for the income year:

b is the greater of—

(i) The amount of the periodic payer’s estimate, being that estimate applying at the due date for payment of the third instalment; and

(ii) The amount of the interim repayments paid on or before the due date for payment of the third instalment.

“(3) If the Commissioner is satisfied that a periodic payer has become liable for underestimation penalty for an income year under this section by reason of—

“(a) The enactment of any Act amending the Income Tax Act 1994 or the making of any regulation or Order in Council relating to income tax, on or after 1 March in

- that income year and on or before 20 April in the immediately succeeding income year; or
- “(b) The Commissioner making public, on or after 1 March in that income year and on or before 20 April in the immediately succeeding income year, any ruling in relation to any provision of the Income Tax Act 1994 and that ruling is different from that previously made public by the Commissioner in relation to that provision; or
  - “(c) The adoption by the person of an incorrect tax position which is corrected for the income year, the Commissioner shall, to the extent that the penalty is higher than it would otherwise have been, write off the penalty or a part thereof.
- “(4) A penalty imposed under this section is deemed to be due and payable on—
- “(a) The 7th day of the month specified in Schedule 13 Part A of the Income Tax Act 1994 as the month for payment of the borrower’s terminal tax, unless the month is January; and
  - “(b) The 15th day of January, when January is the month specified in Schedule 13 Part A of the Income Tax Act 1994.”.

## **6 Application**

Sections 2, 3, 4, and 5 apply to the 1998-99 and subsequent income years.