



Student Loan Scheme Amendment Act (No 2) 2000

Public Act 2000 No 96
Date of assent 14 December 2000
Commencement see section 2

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The Parliament of New Zealand enacts as follows:**1 Title**

- (1) This Act is the Student Loan Scheme Amendment Act (No 2) 2000.
- (2) In this Act, the Student Loan Scheme Act 1992 is called “the principal Act”.

2 Commencement

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

Part 1**Amendments to principal Act****3 Sections 4 to 12 and 15 apply on and from 2000/01 income year**

Sections 4 to 12 and 15 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 **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,—

“(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.

“(2) The conditions in section 38D apply.

“(3) This section is subject to section 13 of the Student Loan Scheme Amendment Act (No 2) 2000.

“38B Full interest write-off for part-time or part-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—

“(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

“(b) had net income of \$24,596 or less.

“(2) The conditions in section 38D apply.

“(3) This section is subject to section 13 of the Student Loan Scheme Amendment Act (No 2) 2000.

“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
- “(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.

“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
- “(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.

“(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.

*“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
- “(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:
- “(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.
- “(3) This section is subject to section 41.
- “(4) Subsection (2) is subject to section 13 of the Student Loan Scheme Amendment Act (No 2) 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 13 of the Student Loan Scheme Amendment Act (No 2) 2000.

“41 Conditions for base interest write-off

The base interest write-off in section 39 and the interest reduction in section 40 apply 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—

“(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—

“(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

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—

“(a) has, in accordance with section 54, refrained from collecting all or part of the borrower’s repayment obligation; and

“(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.

“(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.”

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.”

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:

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

11 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.”

- (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”.

- (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—

“(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):

“(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:

“(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:

“(f) any other particulars that the Commissioner considers relevant to the purposes of subsection (2)(ab).”

12 Regulations

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

13 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—

- (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.

**Part 2
Amendments to other Acts***Amendments to Tax Administration Act 1994***14 Tax Administration Act 1994 called principal Act in sections 15 to 17**

In sections 15 to 17, the Tax Administration Act 1994 is called “the principal Act”.

15 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
- “(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.”

16 Officers to maintain secrecy

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

17 New section 85D inserted

The principal Act is amended by inserting, before section 86, the following section:

“85D Ministry of Education to provide information as to study status of student loan borrowers

- “(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.
- “(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
- “(b) within 7 working days of a request by the Commissioner, provide the Commissioner with such of the 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—
- “(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):

- “(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:
 - “(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.
- “(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.
- “(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.
- “(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
 - “**borrower** has the meaning given to it by section 2 of the Student Loan Scheme Act 1992
 - “**Ministry** means the Ministry of Education.”

Amendment to Privacy Act 1993

18 Third Schedule of Privacy Act 1993 amended

The Third Schedule of the Privacy Act 1993 is amended by adding, to the second column of the item relating to the Tax Administration Act 1994, the expression “, and 85D”.

Legislative history

13 June 2000	Introduction (Bill 38-1)
25 July 2000	First reading and referral to Social Services Committee
20 October 2000	Reported from Social Services Committee (Bill 38-2)
9 November 2000	Second reading
14 November, 12 December 2000	Committee of the whole House (Bill 38-3)
13 December 2000	Third reading
14 December 2000	Royal assent

This Act is administered in the Inland Revenue Department.
