

# **Student Loan Scheme Amendment Bill (No. 3)**

---

*Commentary on the Bill*

**Hon Todd McClay**  
Minister of Revenue

First published in August 2013 by Policy and Strategy, Inland Revenue, P O Box 2198, Wellington 6140.

Student Loan Scheme Amendment Bill (No. 3); Commentary on the Bill.  
ISBN 0-478-39216-8

# CONTENTS

<b>Policy changes</b>	<b>1</b>
Overview	2
Arrest at border	3
Adjusting the overseas-based borrower repayment rules	5
<b>Remedial issues</b>	<b>9</b>
Sharing borrowers' contact details with other agencies	10
Alignment measures	11
Minor technical amendments	12

---

# Policy changes

---

## OVERVIEW

---

The student loan scheme is a significant Crown asset and a major financial commitment by Government towards supporting those in tertiary education. The amendments contained in this bill, announced as part of Budget 2013, build on the policy changes introduced through Budgets 2010–12 which focused on encouraging personal responsibility for loan repayments and promoting compliance.

The bill proposes to enable Inland Revenue to request an arrest warrant for borrowers who persistently default on their student loan obligations and attempt to leave the country. This power will send a strong signal to borrowers that non-compliance is unacceptable and create a strong sanction for persistent defaulters.

The bill also contains amendments to speed up repayments from compliant overseas-based borrowers. It achieves this through fixed repayment obligations for overseas-based borrowers and by adding two new thresholds to the overseas-based borrower repayment rules.

Correct contact details for borrowers are crucial in ensuring the continued compliance of overseas-based borrowers. An information-sharing agreement was announced as part of Budget 2013 to allow the Department of Internal Affairs to provide Inland Revenue with borrowers' contact details that it receives as part of the passport renewal process. This sharing is to be limited to contact details of borrowers that are in default of their loan and not those who are compliant. This is because the Student Loan Scheme Act 2011 does not explicitly allow for sharing of contact details of borrowers who are not in default. The bill contains an amendment to rectify this.

The bill also contains a number of remedial amendments that align the student loan scheme with the treatment of other tax types and measures to ensure the Act works as intended.

## **ARREST AT BORDER**

---

*(Clauses 8 and 9)*

### **Summary of proposed amendments**

There is a group of borrowers who persistently default on their student loan obligations. The bill makes it an offence for overseas-based borrowers to continue to do so. An arrest warrant can be requested for borrowers if the District Court is satisfied they have committed the offence and are about to leave or attempt to leave New Zealand.

### **Application date**

The amendments will apply on the date of enactment.

### **Key features**

Clause 8 inserts new section 162A, making it a criminal offence for a borrower who is in default of their overseas-based repayment obligation and who, having been notified by the Commissioner that they are in default, knowingly fails, or refuses, to make reasonable efforts to pay or to make arrangements with Inland Revenue to pay.

Clause 8 also inserts section 162B in the Act. This amendment allows the District Court to issue a warrant if it is satisfied that the person has committed the offence in section 162A and is about to leave or attempt to leave New Zealand.

The person must be brought as soon as possible before a District Court which may make a range of orders if it is satisfied that the person is about to leave or attempt to leave New Zealand without making reasonable efforts to pay or without making arrangements with Inland Revenue to pay the amount in default.

These orders include:

- an order that the person must give security for the payment of the debt;
- an order that the person must not leave New Zealand without the written permission of the court;
- an order that the liable person must surrender to the court any travel documents or tickets in the person's possession; and
- any other order the court sees fit to make.

Clause 9 amends sections 164 to 166 so that the administration of clause 8 is consistent with the other offences addressed in the Student Loan Scheme Act 2011.

### **Background**

Some borrowers refuse to repay their loans despite having the ability to do so. For this group, applying penalties for overdue payments and potential Inland Revenue debt recovery action does not deter them from defaulting on their loan repayments.

The proposed amendment will enable Inland Revenue to apply for an arrest warrant to prevent an overseas-based borrower who is visiting New Zealand from leaving the country if the District Court is satisfied that they have committed the new offence in section 162A.

Under the Child Support Act, Inland Revenue can request the District Court to issue an arrest warrant for a liable parent who is about to leave New Zealand with the intent to avoid their obligations.

Similar provisions for student loans would send a clear message to all borrowers that non-compliance is unacceptable and there are real consequences for ignoring repayment responsibilities. This is a targeted measure that would be applied to the worst cases of default while acting as a deterrent to the wider group of borrowers.

## ADJUSTING THE OVERSEAS-BASED BORROWER REPAYMENT RULES

---

*(Clause 6)*

### Summary of proposed amendment

The bill adjusts the overseas-based borrower repayment rules by introducing a fixed repayment obligation and two new repayment thresholds.

### Application date

The amendment will apply from 1 April 2014.

### Key features

Clause 6 will replace “consolidated loan balance” with “relevant loan balance” in section 110 of the Act. The definition of “relevant loan balance” will ensure that an overseas-based borrower’s repayment obligation does not decrease as their loan balance decreases.

Clause 6 will introduce two new repayment thresholds so that borrowers with a relevant loan balance of more than \$45,000 but less than or equal to \$60,000 will have a repayment obligation of \$4,000 and borrowers with a relevant loan balance of greater than \$60,000 will have a repayment obligation of \$5,000.

### Background

Currently, there is a three-step repayment obligation for overseas-based borrowers, based on their loan balance.

<b>Loan balance</b>	<b>Amount due per year</b>
<=\$1,000	The whole balance
>\$1,000 and <=\$15,000	\$1,000
>\$15,000 and <= \$30,000	\$2,000
>\$30,000	\$3,000

As a borrower repays their loan, their loan balance will decrease and their repayment obligation will also decrease. This means that a compliant borrower’s repayment obligation will decrease over time while their ability to pay is likely to be the same.

A fixed repayment obligation will ensure that a borrower’s repayment obligation is maintained, even when the loan balance is decreasing. This brings overseas-based borrowers repayment obligations more in line with how commercial loans operate. The proposed amendment will reduce repayment times and the interest cost for compliant overseas-based borrowers.



Introducing two new repayment thresholds will ensure more borrowers' repayment obligations are large enough to cover the interest on their loan. For about 14 percent of overseas-based borrowers (those who have a student loan balance over \$50,847), the amount due each year will not exceed the interest charged on their loan. These 14,581 borrowers will continue to see their student loan balance increasing even if they are compliant.

The proposed amendment will mean that the proportion of borrowers whose repayment obligation does not cover their interest will reduce from 14 percent to 3.5 percent.

<b>Loan balance</b>	<b>Amount due per year</b>
<=\$1,000	The whole balance
>\$1,000 and <=\$15,000	\$1,000
>\$15,000 and <= \$30,000	\$2,000
>\$30,000 and <=\$45,000	\$3,000
>\$45,000 and <=\$60,000	\$4,000
>\$60,000	\$5,000





---

# Remedial issues

---

## **SHARING BORROWERS' CONTACT DETAILS WITH OTHER AGENCIES**

---

*(Clauses 10 and 11)*

An information-sharing agreement was announced as part of Budget 2013, that would allow the Department of Internal Affairs to provide contact details of borrowers received from passport renewals. This sharing was to be limited to contact details of borrowers that are in default of their loan and not those who are compliant. This is because the Student Loan Scheme Act 2011 does not explicitly allow for sharing of contact details of borrowers who are not in default.

Obtaining accurate contact details is crucial for increasing the compliance of overseas-based borrowers. For borrowers who are not in default, obtaining accurate contact details will help Inland Revenue to prevent these borrowers from falling into default. With accurate contact details, Inland Revenue can educate borrowers about their obligations and put early interventions in place.

The proposed amendment enables the Commissioner of Inland Revenue to obtain the contact details of borrowers who are not in default. This will enable Inland Revenue to amend the information-sharing agreement with the Department of Internal Affairs to include borrowers not in default.

### **Application date**

The amendment will apply from the date of enactment.

## **ALIGNMENT MEASURES**

---

### **The definition of “income” for student loan purposes**

#### *(Clause 13)*

The definition of “income” for student loan purposes is largely based on the definition used for Working for Families tax credits. The Taxation (Annual Rates, Foreign Superannuation, and Remedial Matters) Bill introduced recently makes some changes to the formula used to calculate company income for Working for Families purposes.

The amendment proposed in this bill aligns the definition of “income” for student loans with the changes to the definition of “income” for Working for Families. The formula will be simplified so that dividend income is subtracted as part of the formula rather than subtracted in a separate section. This ensures that dividend income from a close company is not counted twice as income of the borrower. A second amendment also proposed to clarify that income from the formula cannot be a negative amount.

A further amendment also proposes to clarify that only living settlors should be counted when determining the numbers of settlors for a borrower’s trust.

#### **Application date**

The amendments will apply from the date of enactment.

### **Reduced late payment interest**

#### *(Clause 7)*

Under section 157 of the Tax Administration Act 1994, Inland Revenue can take deductions from money payable to a taxpayer who is in default (for example, deductions directly from salary and wages). This includes student loan default payments. Individuals subject to a deduction order for tax debts are relieved of some late payment interest.

At present, the legislation provides a different treatment for student loan borrowers as there is no reduction in late payment interest when a loan is under a deduction order. The proposed amendment makes the treatment of late payment interest for student loans consistent with the treatment for tax debts, and reduces the late payment interest charged on overdue student loan obligations by 2 percent when the debt is under a section 157 deduction order.

#### **Application date**

The amendment applies from 1 April 2013.

## **MINOR TECHNICAL AMENDMENTS**

---

Clause 12 clarifies that Inland Revenue may disclose information to StudyLink (which administers student loan applications) to verify that an applicant for a student loan does not have an unpaid amount on their student loan that makes them ineligible for a student loan.

### **Application date**

The amendment will apply from the date of enactment.

Clause 5 corrects a drafting error in the Student Loan Scheme Amendment Act 2013 that caused changes to payment dates for GST six-monthly GST filers to apply only for the 2012–13 tax year. This amendment corrects the error so it applies for the 2013–14 tax year onwards.

### **Application date**

The amendment will apply from the date of enactment.

Clause 4 clarifies the treatment of deductions for borrowers who are in default only. Under the current Act, deductions made for borrowers whose entire loan balance is in default cannot be used to offset the borrower's default. The proposed amendment allows deductions to be used to offset the borrower's default.

### **Application date**

The amendment will apply from 1 April 2012.