

House of Representatives

Supplementary Order Paper

Tuesday, 12 March 2013

Student Loan Scheme Amendment Bill (No 2)

Proposed amendments

Hon Peter Dunne, in Committee, to move the following amendments:

Clause 2

In *clause 2(1)*, delete “**35**”.

Replace *clause 2(2)* (lines 9 to 10 on page 6) with:

- (2) The rest of **Part 1** comes into force on the earlier of—
 - (a) the day after the date that this Act receives the Royal assent; and
 - (b) 1 April 2013.

Clause 6

In *clause 6(2)*, new definition of **end-of-year repayment obligation**, after “net income the borrower derives for a tax year,” (line 19 on page 7), insert “assessed in accordance with **sections 76 and 76A** and”.

In *clause 6(4)*, new definition of **interim payment**, replace “83 or” (line 28 on page 7) with “**83** and”.

In *clause 6(7)*, new definition of **new borrower**, paragraph (a), replace “year:” (line 10 on page 8) with “year; or”.

Clause 7

In *clause 7(4)*, new definition of **overseas-based instalment default**, replace “subpart 5 of Part 2” (lines 13 and 14 on page 9) with “subparts 4 and 5 of Part 2”.

Clause 13

In *clause 13*, new *section 76A*, replace “zero repayment obligation” (line 34 on page 13) with “zero end-of-year repayment obligation”.

In *clause 13*, new *section 79(3)*, replace “for the tax year” (line 19 on page 15) with “for the next tax year”.

In *clause 13*, *new section 82(4)*, replace “**subsection 3(b)**” (line 19 on page 17) with “**subsection (3)(b)**”.

Clause 15

In *clause 15(1)*, replace *new section 111(4)* (lines 12 to 16 on page 21) with:

“(4) This section overrides section 110.”

Clause 39

In *clause 39(4)*, replace *new clause 17(5) to (7)* of Schedule 6 (lines 2 to 11 on page 32) with:

“(5) Regulations made under this clause must include a date on which the regulations are revoked, and that date must be the earlier of—

“(a) 3 years after the date on which they are made; and

“(b) the close of 31 March 2018.

“(6) This clause is repealed on 1 April 2018.”

Clause 48

In *clause 48(2)*, replace “section 57” (line 19 on page 34) with “sections 2(3) and 57”.

Clause 50

Delete *clause 50(1)* (lines 5 to 7 on page 35).

Clause 51

After the heading to *clause 51* (after line 19 on page 35), insert as *new subclause (1)*:

(1) In section 5(1)(e), replace “1992” with “1992:”.

Clause 57

In *clause 57*, *new section 146(3)(b)*, replace “under section 141(2)” (line 27 on page 39) with “under section 139 (whether calculated at the full late payment interest rate in accordance with section 139(2) or the reduced late payment interest rate in accordance with **section 141**)”.

Clause 58

In *clause 58*, heading to *new section 161A*, replace “**terminal payment date**” (line 20 on page 41) with “**last interim payment date**”.

In *clause 58*, *new section 161A(1)(a)*, replace “borrower’s end-of-year repayment obligation would” (line 27 on page 41) with “borrower’s total interim payments would”.

Clause 62

Delete *clause 62* (lines 1 and 2 on page 46).

Clause 65

In *clause 65*, delete “155(5)(b)” (line 26 on page 46).

Clause 68

After *clause 68(1)* (after line 9 on page 47), insert:

(1A) In section 2(2), replace “8, 9 and 10(2)” with “8 and 10(2)”.

Schedule 1

In *Schedule 1*, item relating to *section 190*, after the item relating to *section 190(1)(a)* (after line 27 on page 48), insert:

In section 190(2), replace “subparts 2 and 3 of Part 2” with “**subpart 2** of Part 2”.

Schedule 3

In *Schedule 3*, new *Schedule 3*, *clause 14*, replace “adjustable” (line 12 on page 60) with “adjusted”.

Explanatory note

This Supplementary Order Paper proposes—

- an amendment to *clause 2* of the Student Loan Scheme Amendment Bill (No 2) (the **Bill**), to ensure that the interrelated provisions in different parts of the Bill commence in the right sequence:
- an amendment to the new transitional regulation-making power (*new clause 17* of Schedule 6 of the Student Loan Scheme Act 2011 (the **Act**), inserted by *clause 39(4)* of the Bill:
- a number of amendments to the Bill relating to technical or drafting matters.

Commencement of interrelated provisions

There are 4 commencement dates for provisions in the Bill. Currently, under *clause 2*, all of the provisions in *Part 1* are either deemed to have come into force on 1 April 2012 or come into force on the day after the Bill receives the Royal assent. *Part 2* comes into force on 1 April 2013 and *Part 3* comes into force on 1 April 2014.

As well as the amendments set out in the Bill, there are amendments to the Act that have already been made but are not yet in force. These are in Schedule 7 of the Act itself (and currently come into force on 1 April 2013), the Student Loan Scheme Amendment Act 2012 (the relevant provisions of which will come into force and amend Schedule 7 of the Act on 1 April 2013), and the Student Loan Scheme (Budget Measures) Amendment Act 2012 (which makes various amendments on 1 April 2013 and 1 April 2014).

The Bill takes account of these latent amendments, but only if its provisions come into force in a particular sequence, which includes all provisions in *Part 1* being in force by the close of 1 April 2013 at the latest. The proposed amendment to *clause 2(2)* has the effect that the provisions of *Part 1* that are not in force as of 1 April 2012 can come into force before 1 April 2013, if the Bill receives the

Royal assent before that date. However, the provisions of the Bill will still align, as required, if the Royal assent is given later than 1 April 2013.

Transitional regulation-making power

Clause 39(4) of the existing Bill inserts *new clause 17* into Schedule 6 of the Act. This is a power to make regulations for the purpose of facilitating or ensuring an orderly transition to the changes made by the Bill.

There is already a similar provision in the Act. Section 216 is a power to make regulations where this is necessary or desirable for the orderly transition of the student loan scheme from the Student Loan Scheme Act 1992 to the current Act. It remains in force until 1 April 2015, a period of 3 years from the date of its enactment. Any regulations made under the section may only be in force for a 3-year period also, until 1 April 2015. This power was used last year to make regulations providing immediate relief for certain borrowers under the scheme who had been issued assessments as a result of the unintended application of one of the transitional provisions of the 2011 Act, brought about by a practical change to the system for transferring loans from Study Link to Inland Revenue (the Student Loan Scheme Act 2011 (Transitional Provisions) Regulations 2012).

New clause 17 of Schedule 6 of the Act enables regulations to be made should a similar sort of situation arise in transitioning to the changes made by the Bill.

Currently, *new clause 17* of Schedule 6 repeals itself on 1 April 2017. This is 3 years after 1 April 2014, when *Part 3* of the Bill comes into force. Regulations made under the power may only be in force for a period of 3 years also (*new clause 17(5)* of Schedule 6). Were regulations to be made just before the repeal of *clause 17* (for example, for the purpose of transitioning to changes made by *Part 3* of the Bill), the latest date that these could remain in force would therefore be 1 April 2020.

The change to the Bill proposed by the Supplementary Order Paper would prevent any regulations made under *new clause 17* of Schedule 6 from being in force as late as 2020 and has the overall effect of aligning the date of repeal of the regulation-making power and the revocation of any regulations made under that power. Under the change, the regulation-making power is repealed on 1 April 2018 (4 years after *Part 3* of the Bill comes into force) and any regulations made under the power that are still in force on that date are also revoked. This means that regulations made under the power may only be in force for less than a 3-year period, if made after 1 April 2015. However, no regulations made under the provision could be in force after 1 April 2018.

Technical amendments

The remaining amendments proposed by the Supplementary Order Paper are technical or drafting amendments to ensure clarity, alignment of terminology and interrelated provisions, and to correct certain provision cross-references and other drafting matters.