



Student Loan Scheme Amendment Act 2014

Public Act 2014 No 6
Date of assent 7 March 2014
Commencement see section 2

Contents

		Page
1	Title	2
2	Commencement	2
3	Principal Act	2
Part 1		
Amendments to Student Loan Scheme Act 2011		
4	Section 4 amended (Interpretation)	3
5	Section 84 amended (Due dates for payment of interim payments)	3
6	Section 110 replaced (Repayment obligations of overseas-based borrowers)	3
	110 Repayment obligations of overseas-based borrowers	3
7	New section 141A inserted (Late payment interest reduced if deduction or extraction notice applies)	4
	141A Late payment interest reduced if deduction or extraction notice applies	4
8	New sections 162A and 162B inserted	5
	162A Offence for default of overseas-based repayment obligation	5
	162B Arrest of liable person	5
9	Sections 164 to 166 amended	7

10	Section 193A amended (Contact person may be requested to assist)	7
11	Section 193C amended (Changes relating to contact details of borrower)	7
12	Section 207 amended (Disclosure of information between authorised persons)	7

Part 2
Amendments to Student Loan Scheme Amendment Act 2013

13	Amendments to Student Loan Scheme Amendment Act 2013	8
14	Schedule 3, new Schedule 3, clause 8 replaced	8
15	Schedule 3, new Schedule 3, clause 11 amended	8
16	Schedule 3, new Schedule 3, clause 12 amended	9
17	Schedule 3, new Schedule 3, new clause 12A inserted	9
18	Schedule 3, new Schedule 3, clause 13 amended	10

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Student Loan Scheme Amendment Act 2014.

2 Commencement

- (1) Section 4 is deemed to have come into force on 1 April 2012.
- (2) Section 6 comes into force on 1 April 2014.
- (3) Section 7 is deemed to have come into force on 1 April 2013.
- (4) This rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Student Loan Scheme Act 2011 (the **principal Act**).

Part 1
Amendments to Student Loan Scheme
Act 2011

4 Section 4 amended (Interpretation)

In section 4(1), replace the definition of **borrower deduction** with:

“**borrower deduction** means—

- “(a) a deduction from a borrower’s salary or wages in accordance with section 39:
- “(b) the amount of a standard deduction that exceeds the borrower’s loan balance”.

5 Section 84 amended (Due dates for payment of interim payments)

In section 84(2)(d), after “2012–2013 tax year”, insert “or any subsequent tax year”.

6 Section 110 replaced (Repayment obligations of overseas-based borrowers)

Replace section 110 with:

“110 Repayment obligations of overseas-based borrowers

- “(1) This section applies to an overseas-based borrower who—
 - “(a) is not or is no longer entitled to a repayment holiday under section 107B or 108A(2); and
 - “(b) has not had his or her overseas-based repayment obligation reassessed under section 115A.
- “(2) The borrower’s repayment obligation for every full tax year during which this section applies to the borrower is—
 - “(a) \$1,000, if the relevant loan balance is less than or equal to \$15,000:
 - “(b) \$2,000, if the relevant loan balance is more than \$15,000 but less than or equal to \$30,000:
 - “(c) \$3,000, if the relevant loan balance is more than \$30,000 but less than or equal to \$45,000:
 - “(d) \$4,000, if the relevant loan balance is more than \$45,000 but less than or equal to \$60,000:
 - “(e) \$5,000, if the relevant loan balance is more than \$60,000.

- “(3) The borrower’s repayment obligation for any portion of a tax year (being less than a full tax year) during which this section applies to the borrower must be calculated in accordance with the following formula:

$$\frac{x}{365} \times y$$

where—

x is the number of days in the tax year during which this section applies to the borrower

y is the amount that would apply under subsection (2) if this section applied to the borrower for the full tax year.

- “(4) In this section—

“**existing borrower** means a borrower who was overseas-based on 31 March 2014 and has been continuously overseas-based since that date

“**relevant loan balance** means the borrower’s consolidated loan balance on the start date or, if the borrower’s consolidated loan balance increases, the greatest balance on any 31 March after the start date but before the last day of the tax year

“**start date** means,—

“(a) for an existing borrower, 31 March 2014:

“(b) for any other borrower, the day when the borrower becomes overseas-based.

“Compare: 1992 No 141 s 34”.

7 **New section 141A inserted (Late payment interest reduced if deduction or extraction notice applies)**

After section 141, insert:

“**141A Late payment interest reduced if deduction or extraction notice applies**

- “(1) This section applies if—

“(a) a borrower is liable to pay late payment interest on an unpaid amount under section 139; and

“(b) the Commissioner has exercised powers available under section 157 of the Tax Administration Act 1994 to require any person to deduct or extract any amount from any moneys payable by that person to the borrower.

- “(2) For a month during which any unpaid amount remains unpaid and the Commissioner has received tax withheld or deducted in accordance with the requirements of a notice issued under section 157 of the Tax Administration Act 1994 (a **deduction or extraction notice**), any late payment interest that the borrower is liable to pay on the unpaid amount must be calculated as if, in the definition of late payment interest rate in section 139(3), the reference to base interest rate plus 4% were a reference to base interest rate plus 2%.
- “(3) However, subsection (2) applies only to the days in a month during which a deduction or extraction notice is in effect.”

8 New sections 162A and 162B inserted

After section 162, insert:

“162A Offence for default of overseas-based repayment obligation

- “(1) Every person commits an offence who is in default of his or her overseas-based repayment obligation and who, having been notified by the Commissioner that he or she is in default, knowingly fails, or refuses, by the due date specified in the notification to make reasonable efforts to pay the amount in default or to make arrangements with the Inland Revenue Department to pay the amount in default.
- “(2) Every person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding \$2,000.

“Compare: 1994 No 166 ss 143A, 143B

“162B Arrest of liable person

- “(1) A District Court Judge or, if a District Court Judge is not available and the case appears to be urgent, a Registrar may, on an application in writing by the Commissioner, issue a warrant for the arrest of a person (the **liable person**) if the Judge or Registrar (as the case may be) is satisfied that the person has committed the offence in section 162A and is about to leave or attempt to leave New Zealand.
- “(2) The liable person must be brought as soon as possible before a District Court, which, if it is satisfied that the person is about to leave or attempt to leave New Zealand without making rea-

sonable efforts to pay the amount in default or without making arrangements with the Inland Revenue Department to pay the amount in default, may order that the liable person—

- “(a) pay the amount in default:
 - “(b) make arrangements with the Inland Revenue Department to pay the amount in default:
 - “(c) give such security (including the provision of sureties) for the payment of that liability as the court specifies:
 - “(d) not leave New Zealand without the written permission of the court:
 - “(e) surrender to the court, for such period as the court specifies, any travel documents or tickets in the person’s possession:
 - “(f) provide the court, within such period as the court specifies, with any information the court thinks appropriate.
- “(3) To avoid doubt, the court may make an order under subsection (2) even if the Commissioner is able to recover the debt by other means.
- “(4) On making an order under subsection (2)(d) or (e), the court may direct the Registrar to give notice of the order to such departments of State, offices, or persons as the court or the Registrar thinks appropriate.
- “(5) Every person commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$2,000 who—
- “(a) is a person against whom an order is in force under subsection (2)(d) or (e); and
 - “(b) is in default of his or her overseas-based repayment obligation; and
 - “(c) either—
 - “(i) leaves New Zealand; or
 - “(ii) attempts, or does any act with the intent, to leave New Zealand.
- “(6) A person against whom an order under subsection (2) is in force may apply to the court for the discharge of the order, and the court may, if it considers it just or appropriate, discharge the order accordingly.
- “(7) If the court discharges an order made under subsection (2)(e), it must direct the return of any travel documents or tickets sur-

rendered pursuant to the order (unless the court grants a new order under subsection (2)(e) in relation to the same documents).

“Compare: 1991 No 142 s 199”.

9 Sections 164 to 166 amended

In sections 164, 165, and 166, replace “section 163” with “section 162A or 163”.

10 Section 193A amended (Contact person may be requested to assist)

In section 193A(3), replace “In subsection (2),” with “In this section and section 193C,”.

11 Section 193C amended (Changes relating to contact details of borrower)

In section 193C, insert as subsection (2):

- “(2) For the purpose of verifying the borrower’s address details, the Commissioner may receive the borrower’s address details from any other person if the information is shared in accordance with any other provision of this Act or any other enactment.”

12 Section 207 amended (Disclosure of information between authorised persons)

After section 207(1)(b), insert:

- “(ba) an authorised person from disclosing to another authorised person any information for the purpose of verifying any declaration made by an applicant for a student loan as to any unpaid amounts owed by the applicant where the declaration is a condition of obtaining the loan; or”.

Part 2
Amendments to Student Loan Scheme
Amendment Act 2013

13 Amendments to Student Loan Scheme Amendment Act 2013

This Part amends the Student Loan Scheme Amendment Act 2013.

14 Schedule 3, new Schedule 3, clause 8 replaced

In Schedule 3, new Schedule 3, replace clause 8 with:

“8 Borrowers who are shareholders in close companies

“(1) This clause applies to a borrower who is a major shareholder in a close company on the last day of the company’s income year.

“(2) The borrower’s adjusted net income for the income year includes an amount calculated using the following formula, if the amount is greater than zero,—

$$a \times (b - c)$$

where—

- a is the voting interest (in percentage) in the company held by the borrower on the last day of the company’s income year
- b is the net income of the company for the company’s income year
- c is the total dividends paid by the company for the company’s income year.

15 Schedule 3, new Schedule 3, clause 11 amended

(1) In Schedule 3, new Schedule 3, clause 11(3), replace “(a + b – c) ÷ d” with “(a + b) ÷ d”.

(2) In Schedule 3, new Schedule 3, clause 11(3), replace item b with:

“b is the greater of zero and the total of amounts calculated in accordance with subclause (4) for each company in which the trustee of the borrower’s trust and associated persons hold voting interests of 50% or more on the last day of the company’s income year”.

- (3) In Schedule 3, new Schedule 3, clause 11(3), delete item c.
- (4) In Schedule 3, new Schedule 3, clause 11(3), item d, after “borrower’s trust”, insert “who are alive at any time in the income year”.
- (5) In Schedule 3, new Schedule 3, after clause 11(3), insert:
- “(4) The amount referred to in item b of the formula in subclause (3) is to be calculated for each company using the following formula:

$$x \times (y - z)$$

where—

- x is the total of the voting interests (in percentage) held by the trustee on the last day of the company’s income year
- y is the net income of the company for the company’s income year
- z is the total dividends paid by the company for the company’s income year.

16 Schedule 3, new Schedule 3, clause 12 amended

In Schedule 3, new Schedule 3, replace clause 12(1)(a) with:

- “(a) a borrower is an employee of a company in which the borrower and associated persons hold voting interests of 50% or more on the last day of the income year; and”.

17 Schedule 3, new Schedule 3, new clause 12A inserted

In Schedule 3, new Schedule 3, after clause 12, insert:

“12A Income from employment benefits

- “(1) This clause applies to a borrower to whom clause 12 does not apply if the borrower’s employer makes a motor vehicle or a short term charge facility available to the borrower in the income year.
- “(2) If the borrower’s employer makes a motor vehicle available for the borrower’s private use (the **benefit**) and, under the terms of the borrower’s employment, the borrower would be entitled to a greater amount of employment income if the borrower chose not to receive the benefit, the borrower’s adjusted net income for that income year includes an amount equal to the amount

by which the borrower's employment income would be greater without the benefit.

- “(3) If the borrower's employer makes any short term charge facility available to the borrower (the **facility**), and the total value for the income year of any such facilities (excluding any fringe benefit tax) is more than the lesser of \$1,200 or 5% of the borrower's salary or wages, then the borrower's adjusted net income for the income year includes the total value of the facilities including any fringe benefit tax.”

18 Schedule 3, new Schedule 3, clause 13 amended

In Schedule 3, new Schedule 3, replace clause 13(d) with:

- “(d) a company in which a trustee referred to in paragraph (c) and associated persons hold a voting interest of 50% or more on the last day of the income year.”

Legislative history

19 August 2013	Introduction (Bill 147-1)
27 August 2013	First reading and referral to Finance and Expenditure Committee
28 November 2013	Report of the Finance and Expenditure Committee (Bill 147-2)
13 February 2014	Second reading
18 February 2014	Committee of the whole House
6 March 2014	Third reading
7 March 2014	Royal assent

This Act is administered by the Inland Revenue Department.
