

Student Loan Scheme Amendment Bill (No. 2)

*Officials' Report to the Education and Science
Committee on Submissions on the Bill*

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Ministry of Education*

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OVERVIEW

The Student Loan Scheme Amendment Bill (No.2) amends the Student Loan Scheme Act 1992. The changes in the bill deal with concerns that the current rules for overseas borrowers are discouraging many from meeting their repayment obligations and may deter some borrowers from returning home.

The bill aims to reduce the current barriers to borrowers who are living overseas from returning to New Zealand. To achieve this, a number of changes are being introduced. The amnesty on student loan penalties is being extended, giving overseas borrowers in arrears the chance of a fresh start. In addition, a three-year repayment holiday is being introduced for overseas-based borrowers. This change recognises New Zealanders' tradition of OE, which can confer certain benefits on New Zealand when borrowers return with new skills. Interest will continue to be charged during a repayment holiday. For overseas-based borrowers not on a repayment holiday, repayment obligations will be simplified and will be based on the size of their loan balance.

Because interest-free loans are generally limited to borrowers living in New Zealand there is an increased financial incentive for borrowers to leave New Zealand without informing Inland Revenue. To ensure that borrowers receive their correct entitlements under the Student Loan Scheme Act, the bill introduces an information match between the New Zealand Customs Service and Inland Revenue.

Other changes in the bill include giving the Commissioner of Inland Revenue the ability to grant borrowers studying full-time overseas an interest-free loan, reducing the late-payment penalty rate and making the hardship provisions more flexible.

Fifteen submissions were received on the bill and were generally in favour of the amendments.

Policy Changes

THREE-YEAR REPAYMENT HOLIDAY

Clauses 9 and 35

Submissions

(1 – New Zealand Medical Students’ Association, 2 – Association of University Staff of New Zealand, 4 – New Zealand Union of Students’ Associations, 8 – Association of Staff in Tertiary Education, 9 – NZEI Te Riu Roa, 10 – C Browne, 12 – New Zealand Nurses Organisation, 13 – New Zealand Council of Trade Unions)

The amendments that establish a three-year repayment holiday for borrowers based overseas should proceed.

The amendments are supported because:

- The repayment holiday will be of benefit to all graduates by preventing the accumulation of penalties while they are overseas. It removes a disincentive for graduates to return to New Zealand, while at the same time creating an incentive to return after three years. *(New Zealand Medical Students’ Association)*
- The repayment holiday is another important step in ensuring that student loan borrowers have the same opportunities as previous generations to travel and work without being tied to student loan obligations. *(Association of University Staff of New Zealand)*
- Any interim measure that reduces difficult and unfair repayment obligations for borrowers is worth supporting. Tertiary education students/graduates should be provided with every opportunity to explore the world upon graduation or during a break in their studies, and be provided with the same sorts of experiences that previous generations enjoyed – working and travelling without having harsh student loan repayment obligations. *(New Zealand Union of Students’ Associations)*
- It is a matter of fairness to ensure that current and future generations of young New Zealanders have opportunities for “the big OE” without having to fear returning or indeed having to decide never to do so. *(Association of Staff in Tertiary Education, NZEI Te Riu Roa, New Zealand Nurses Organisation, New Zealand Council of Trade Unions)*
- Young New Zealanders are always going to want to travel overseas. Overseas travel and experience serves to enrich and enhance the skills brought back to New Zealand. *(C Browne)*

Recommendation

That the submissions be noted.

Submission

(5 – Business NZ)

- The amendments that establish a three-year repayment holiday for borrowers based overseas should not proceed:
- The establishment of a repayment holiday could create incentives for borrowers to leave the country.
- The concept of a repayment holiday raises fundamental questions of fairness: why should borrowers who have left the country effectively be rewarded, when those who stay in New Zealand meet their repayment obligations and make an economic contribution to the country are not?
- The effective removal of any requirement by non-resident borrowers to keep repaying their loans for three years would seem to undermine incentives for personal financial prudence and responsibility.

Comment

Officials do not consider that introducing a repayment holiday for overseas-based borrowers will create incentives for borrowers to leave the country. Research conducted by the Ministry of Education has shown that borrowers' decisions to leave New Zealand are generally independent from the fact that they have a student loan. In addition, overseas-based borrowers are not eligible for the full interest write-off which gives effect to interest-free loans. Interest-free loans for New Zealand-based borrowers create incentives for borrowers to remain in New Zealand. In relation to the issue of fairness, the benefit of interest-free loans recognises the contribution to society and the economy made by those living in New Zealand.

Furthermore, borrowers who make repayments on their loan (whether compulsory or not) are reducing the size of their loan balance. Borrowers who are overseas and choose not to make repayments will have their loan balance increase because debt escalation is the result of compounding interest. Hardship provisions are available so that borrowers in New Zealand can lower their repayment obligation, including to nil, if payment would cause them serious financial hardship.

Inland Revenue will continue to encourage voluntary repayments from borrowers who are on a repayment holiday, and is looking at ways to make it easier for borrowers living overseas to make repayments.

Recommendation

That the submission be declined.

Submission

(15 – National Council of Women of New Zealand)

The introduction of a repayment holiday has met with mixed views from NCWNZ members. On the one hand, some members are wary of giving more discretionary powers to the Commissioner while others see the possibility of a more compassionate approach when it comes to female students and graduates or even males who become parents.

Comment

It should be noted that all overseas-based borrowers are entitled to a repayment holiday. There is no discretion for the Commissioner to grant a repayment holiday to certain overseas-based borrowers and not others.

Recommendation

That the submission be noted.

Submission

(15 – National Council of Women of New Zealand)

Another National Council of Women of New Zealand member wondered what the holiday implied in terms of female students who stayed in New Zealand, because their contribution could potentially be as valuable as that of an overseas-based borrower. Some members expressed the view that the repayment holiday should be available for borrowers living in New Zealand.

One member suggested giving the Commissioner the ability to grant a repayment holiday for the first three years of the life of a borrower's child.

Comment

New Zealand-based borrowers' repayment obligations are income-contingent which protects borrowers with little or no income. Furthermore, hardship provisions mean that a borrower's repayment obligation can be negotiated, including to nil, if payment would cause serious hardship.

As noted previously, interest-free loans for New Zealand-based borrowers recognises the contribution made by such borrowers to New Zealand's society and economy.

Recommendation

That the submission be declined.

Submission

(4 – New Zealand Union of Students' Associations)

Supports the repayment holiday being able to be taken in one or more periods.

Recommendation

That the submission be noted.

Submission

(4 – New Zealand Union of Students' Associations)

Borrowers should be able to apply to the Commissioner to extend their repayment holiday beyond three years – for example to five years, if they intend to live and/or work overseas for more than three years.

Comment

The three-year repayment holiday is intended to allow borrowers to go overseas short-term without their loans increasing at a punitive rate. The suggestion would, in effect, allow for a five-year repayment holiday for all borrowers overseas, meaning that those borrowers overseas long-term would not have any repayment obligations for a significant period of time. The policy was designed to recognise the traditional “OE”, which typically lasts less than five years.

Officials consider that entitlement to a repayment holiday should be automatic. Requiring borrowers to apply to the Commissioner for a repayment holiday increases administration and compliance costs.

Recommendation

That the submission be declined.

Submission

(4 – New Zealand Union of Students' Associations)

All overseas borrowers should be entitled to a repayment holiday from 1 April 2007. Those who are already overseas, having been there for one, two, three or more years should not be penalised from being provided with the opportunity to take a three-year repayment holiday. There should be some recognition for those borrowers relative to the harsh and unaffordable repayment rules they have had to experience.

Comment

It should be noted that all borrowers are entitled to a three-year repayment holiday in their lifetime. However, transitional rules mean that certain borrowers who are overseas-based as at 1 April 2007 would need to first become New Zealand-based before going overseas again to be able to use their repayment holiday or to use the full three-year period.

There is a trade-off between simplicity and equity in setting the rules for borrowers already overseas. The simple option would be for all borrowers who are overseas-based after 1 April 2007 to be automatically entitled to a three-year repayment holiday from that date. However, it could be argued that it is inequitable for borrowers who have been non-compliant and who do not avail themselves of the fresh start provided by the amnesty to be immediately entitled to the full three-year period.

Officials consider that the transitional rules provide an equitable solution. Borrowers who have been compliant (or who comply with the amnesty terms) are immediately

entitled to the full three-year repayment holiday. Borrowers who have been non-compliant and who do not come within the amnesty are entitled to a repayment holiday based on the period of time they have been overseas. If such a borrower becomes New Zealand based they will be entitled to the remainder of the three-year period the next time they go overseas. It is a reasonable expectation that such borrowers will have become compliant again, generally through having repayment deductions from salary or wages.

Recommendation

That the submission be declined.

Submission

(3 – New Zealand Law Society)

The provisions that provide for a borrower's entitlement to the three-year repayment holiday, and in particular the way the amnesty eligibility ties in with that entitlement, are unnecessarily complex.

Comment

Officials agree that the provisions are complex. This complexity arises because of the trade-off between simplicity and equity (and consequently the drafting of the provisions is complex). The rules are straightforward for all borrowers who become overseas-based after 1 April 2007.

Recommendation

That the submission be noted.

Submission

(14 – B and K Holland)

The repayment holiday should include past years.

Comment

Borrowers who come within the amnesty and meet its terms will have no penalties applied to their accounts. Instead, compounding interest will apply in its place. This gives the same result as if the repayment holiday included past years. If the repayment holiday was automatically retrospective for all borrowers who have failed to meet their obligations, in effect this would be an automatic amnesty. Officials consider that for borrowers to reap the amnesty benefits they should be required to demonstrate a willingness to repay their loan. This is why borrowers who come within the amnesty must make repayments over a two-year period to have no penalties applied to their accounts.

Recommendation

That the submission be declined.

Submission

(14 – B and K Holland)

The Committee should ensure that clauses of this nature are not designed to continue the “indentured” nature of the student loan contract.

Recommendation

That the submission be noted.

REPAYMENT OBLIGATIONS FOR BORROWERS NOT ON A REPAYMENT HOLIDAY

Clause 9

Submissions

(3 – New Zealand Law Society, 4 – New Zealand Union of Students' Associations)

Why should there be a different approach to repayment obligations between overseas-based and New Zealand-based borrowers? Should income-based assessments for all overseas-based borrowers be preferred to loan balance-based assessments? *(New Zealand Law Society)*

Repayment obligations for overseas-based borrowers should be income-contingent. Calculating a repayment obligation based on the size of the borrower's loan is not a fair way to determine repayment obligations. Such a regime will severely penalise borrowers who may have large loans yet low-to-medium incomes while overseas. *(New Zealand Union of Students' Associations)*

Comment

An income-contingent approach would be administratively complex and potentially difficult for borrowers to understand their obligations.

Borrowers overseas would be required to self-assess their income and their repayment obligations would be calculated accordingly. This in itself causes problems because borrowers who are non-resident for tax purposes currently have no requirement to declare their overseas-sourced income. Furthermore, Inland Revenue would have no way of verifying whether the income declared was correct – double tax agreements which provide for the exchange of information do not apply for student loans purposes. This means that the intent of an income-contingent-based system for overseas based borrowers could potentially be undermined.

An additional problem with an income-contingent repayment approach for overseas-based borrowers is determining the level at which to set the repayment threshold. Currently, borrowers in New Zealand are required to make payments when their income exceeds \$17,160 per year. For a borrower living in London, this threshold is relatively low given the cost of living there. On the other hand, for a borrower living in Vietnam, the threshold is relatively high.

England has recently introduced an income-contingent system for overseas borrowers whereby the repayment threshold is calculated by reference to the price level index of the borrower's country of residence. There are seven different price level index bands (meaning that there are seven different repayment thresholds), with the index being calculated using comparative price level indices produced by the Statistical Office for the European Communities or the World Bank. Officials consider that introducing a similar system in New Zealand would be administratively complex and difficult for borrowers to understand.

The three-year repayment holiday should mean that the majority of borrowers will be in a position where they are earning enough income so they can meet the required

repayments when the holiday ends. Hardship provisions will, however, continue to exist so that borrowers overseas can renegotiate their repayment obligations with the Commissioner if payment would cause serious hardship.

Recommendation

That the submissions be declined.

Submission

(3 – New Zealand Law Society)

There are two instances where a borrower may find the different repayment obligations for New Zealand-based borrowers and overseas-based borrowers problematic:

- where a borrower is intending to be overseas-based for a period beyond the repayment holiday period and they will be earning little or no income. In such cases the borrower will be subject to repayment obligations greater than those if they had remained in New Zealand and earned a similar amount; and
- borrowers who travel overseas for a period of time that takes them out of the 183-day residence rule will be required, for the period they are in breach of the rule, to modify their repayments. For example, a borrower who travels away from New Zealand for more than 31 days (but perhaps not much more) will be in breach of the 31-day rule and forced to amend their repayments.

Comment

Overseas-based borrowers earning little or no income

Inland Revenue will have the ability to reduce an overseas-based borrower's repayment obligation, including to nil, if payment would cause serious hardship. This should mitigate concern that the different repayment obligations for New Zealand-based and overseas-based borrowers are unfair.

Borrowers who travel overseas for periods that take them outside the 183-day residence rule

Once borrowers have qualified for the full interest write-off which gives effect to interest-free loans (generally by being present in New Zealand for 183 or more consecutive days) they will continue to be eligible for the write-off until they have been overseas for 184 consecutive days or more. If a period that would have been 184 or more consecutive days is broken by a period or periods in the aggregate of 31 days or less in New Zealand, the time spent in New Zealand will be treated as having been spent overseas. This is to stop borrowers coming back to New Zealand for very short periods in order to continue receiving the interest write-off.

The effect is that borrowers will become subject to the repayment rules for overseas-based borrowers only if they spend more than six months out of New Zealand (including a period or periods in aggregate of 31 days in New Zealand during that six-

month period). Officials do not consider this to be onerous. Borrowers who leave the country for short periods will continue to be subject to the rules for New Zealand-based borrowers.

Recommendation

That the submission be noted.

Submission

(2 – Association of University Staff of New Zealand)

Introducing progressive repayment rules for overseas borrowers will help make the student loan scheme fairer and less punitive for borrowers.

Recommendation

That the submission be noted.

Submission

(11 – I Johnston)

Requiring people to repay their student loan at a rate of one-fifteenth of the loan balance plus interest is prohibitive to people making a good life for themselves.

Recommendation

That the submission be noted.

Submission

(10 – C Browne)

If this bill is not passed, the submitter considers the repayments required on her student loan would be crippling. This would put the submitter in a weak position to contribute to the economy upon return to New Zealand.

Recommendation

That the submission be noted.

Submission

(5 – Business NZ)

Further thought should be given to the need for, and nature of new repayment obligations for non-resident borrowers. The benefits to borrowers of the new repayment obligations vary considerably (and are seemingly arbitrary), depending on the level of an individual's debt.

If there is a need to reduce the annual repayment obligations for all non-resident borrowers, another option would be to reduce the proportion of the principal that borrowers are required to pay – for example, to one-twentieth or one twenty-fifth. This would ease repayment burdens, while distributing the benefits fairly across all borrowers.

Comment

Non-resident repayment obligations were initially designed so that loans would be repaid in a maximum of 15 years. This was achieved by requiring quarterly payments of a fixed amount of the principal (based on the loan balance at the beginning of the tax year following the year of departure), plus the estimated interest for the year. If the loan balance was less than \$15,000, \$1,000 of the principal was required each year. For loans over \$15,000, principal of 1/15th of the loan balance was required.

For many borrowers the amount that they are expected to pay is simply not achievable. For example, a non-resident borrower with a loan balance of \$60,000 will have a repayment obligation in the first year following departure from New Zealand of nearly \$8,000. A resident borrower would need to have income of nearly \$100,000 to have the same liability. Because the existing non-resident repayment regime is unaffordable for many, officials consider that there is a need to reduce the annual repayment obligations for overseas-based borrowers.

Officials agree that the proposed repayment obligations have potential inequities around the steps. With a \$15,000 loan balance, the repayment obligation is 7% of the principal. With a loan balance of \$15,001, the repayment obligation is 13% of the principal. These inequities must be considered against the benefits of having repayment obligations which will be simpler for borrowers to understand. Officials consider that any repayment obligation which includes the estimated interest on a borrower's loan balance for the year will be difficult for borrowers to understand.

On balance, officials consider that the simplicity of the proposed amendments outweighs the inequities that exist around the proposed steps.

Recommendation

That the submission be declined.

Submission

(14 – B and K Holland)

The existing repayment obligations that appear to be assigned to borrowers living overseas, in the submitter's personal case, appear to not be agreed to in the student loan contract and therefore appear to be unlawful. The submitter also notes that the

1992 student loan contract provides that borrowers will not be charged interest if their income does not reach a threshold in any given year.

Comment

Section 63 of the Student Loan Scheme Act 1992 provides that the Act supplements the provisions of the student loan contract and prevails in the event of any inconsistency. The existing repayment obligations and interest write-off provisions for borrowers living overseas are therefore lawful.

Recommendation

That the submission be noted.

Submission

(14 – B and K Holland)

Compliance is low because the system places no duty of care on agencies that are primarily benefiting from the monies earned and because there is no real communication from government agencies.

Comment

Inland Revenue is currently looking at what steps it could take to make it easier for overseas based borrowers to make repayments (including ways to make communication with borrowers simpler and easier).

Recommendation

That the submission be noted.

EXTENDING THE AMNESTY ON STUDENT LOAN PENALTIES

Clauses 4, 19, 30 and 35

Submissions

(2 – Association of University Staff of New Zealand, 4 – New Zealand Union of Students' Associations, 8 – Association of Staff in Tertiary Education, 9 – NZEI Te Riu Roa, 12 – New Zealand Nurses Organisation, 13 – New Zealand Council of Trade Unions, 14 – B and K Holland)

Support the extension of the amnesty on student loan penalties from 31 March 2007 to 31 March 2008:

- News of the changes to student loan interest and repayment obligations could take a long time to reach many overseas-based borrowers and an extra year of the amnesty would help to ensure that borrowers are not penalised. *(Association of University Staff of New Zealand)*
- The amnesty should be provided because the existing repayment obligations for borrowers living overseas are unaffordable for many. *(New Zealand Union of Students' Associations)*
- Time is needed for borrowers who are overseas to become aware of the amnesty and thus avoid being unwittingly penalised. *(Association of Staff in Tertiary Education, NZEI Te Riu Roa, New Zealand Nurses Organisation, New Zealand Council of Trade Unions)*

Recommendation

That the submissions be noted.

Submission

(3 – New Zealand Law Society)

The Law Society is surprised to see that a default penalty of 5% of the borrower's outstanding loan balance is deemed to apply where a borrower fails to apply for, or qualify for, the amnesty. Provisions allow for the penalty to be reduced in line with any actual repayment penalty for the given period, but such a reduction is not mandatory. The provision should be viewed closely by the Committee to ensure that cannot lead to discrepancies in the treatment of borrowers who fall within this proposed section.

Comment

The intention is that the penalty added to borrowers' accounts would be the lesser of 5% of the borrower's loan balance or the penalties that would have been charged under the existing rules.

Recommendation

That the submission be noted.

Submission

(14 – B and K Holland)

The amnesty should be extended probably far beyond April 2008 and its end date should be linked to an accountability report by Inland Revenue that shows the majority of loan holders have been notified of the extension. Notification should be attempted by sending the information to the permanent addresses that exist on the front page of all loan contracts.

Comment

The purpose of the amnesty is to give borrowers a “one-off” opportunity to have a fresh start. If the amnesty on penalties was extended well beyond 31 March 2008, by its very nature it would no longer be an amnesty and would effectively constitute a policy shift.

Officials consider that it is not feasible to show that the majority of loan holders have been notified of the extension; Inland Revenue does not have valid contact details for many borrowers eligible to come within the amnesty. In addition, Inland Revenue does not generally hold copies of loan contracts and, even if it did, it is likely that the address details would no longer be valid in many cases. Inland Revenue is planning an advertising campaign to inform borrowers about the amnesty. In particular, this campaign will target borrowers’ friends and family living in New Zealand.

Recommendation

That the submission be declined.

Submission

(14 – B and K Holland)

The Committee should recognise that little or no public notification was given to borrowers about the existing amnesty.

Comment

Formal advertising of the existing amnesty was deferred because of the policy changes in the bill. Inland Revenue is planning a formal communications campaign based on the terms of the extended amnesty.

Recommendation

That the submission be noted.

Submission

(14 – B and K Holland)

Penalties should never have been imposed on loans, including on younger members of society who have not been adequately counselled on the financial ramifications of signing a student loan contract.

Comment

If penalties were not imposed when borrowers failed to meet their repayment obligations, borrowers would simply not repay their loans. For the system to work, it is vital that those who do not comply with the rules are seen to face the consequences.

StudyLink, the service of the Ministry of Social Development responsible for student loan applications, suggests that student loan applicants get independent advice and think about the financial implications before taking out a student loan. The documents produced for borrowers suggest the need to budget/calculate what needs to be borrowed and how this will be repaid.

Since 1999 applicants under 18 generally need a parent or guardian to sign the student loan contract giving their consent before a loan application is accepted. Officials consider it reasonable to expect that the parent or guardian will have exercised some care and responsibility in explaining the implications to the applicant of what they are signing up to.

Recently, StudyLink has undertaken a pilot programme whereby they engage with students to try and make sure that the key messages around the financial implications of taking out a student loan are understood, including where they can get advice and assistance to make good decisions about their study and how they will fund it.

Recommendation

That the submission be noted.

Submission

(14 – B and K Holland)

The amnesty should include the writing-off of interest and penalties of borrowers living overseas who are willing to take the cut in pay, increase their cost of living, and return to New Zealand to offer their skills and inspiration to the homeland.

Comment

If borrowers who came within the amnesty had both interest and penalties written off then non-compliant borrowers would be better off than compliant non-resident and resident borrowers. In addition, there would be a significant fiscal cost to do this.

Recommendation

That the submission be declined.

Submission

(14 – B and K Holland)

Encourage Inland Revenue to be informed of the amendments.

Recommendation

That the submission be noted.

Submission

(14 – B and K Holland)

A clause in writing should state that if an amnesty is entered into, that no law in the future can repeal the interest write-offs that have been given. In addition, it should be recognised that often younger members of society do depend on the government and do expect that it is looking out for the best interest of its citizens. There should be a guarantee that those who have entered into the amnesty will not be bounced back and forth if and when a new government is elected.

Comment

Under the doctrine of parliamentary sovereignty Parliament must always be free to legislate for the public good. This means that one parliament cannot bind another.

Recommendation

That the submission be declined.

INTEREST-FREE LOANS FOR BORROWERS STUDYING FULL-TIME OVERSEAS AT UNDERGRADUATE LEVEL

Clause 14

Submissions

(2 – Association of University Staff of New Zealand, 8 – Association of Staff in Tertiary Education, 9 – NZEI Te Riu Roa, 12 – New Zealand Nurses Organisation, 13 – New Zealand Council of Trade Unions, 14 – B and K Holland)

The new power granted to the Commissioner to grant borrowers studying full-time overseas at undergraduate level an interest-free loan is supported. The new power recognises the benefit to New Zealand of students who live and study in overseas countries.

Recommendation

That the submissions be noted.

Submission

(14 – B and K Holland)

The exemption is too limited. It sets forth the precedent that university education is more important than anything else and should be rewarded. There are many crafts, including arts, music, cultural and environmental activities which can be deeply enhanced by time overseas in communities which have already flourished. Thus, those borrowers who are willing to sacrifice time in their homeland to gain experience in other fields should not be valued less than those at university. The application of this study rule appears to be the continuation of the class system.

Comment

One rationale for the exemption is to build research connections and support study where there is little or no provision in New Zealand. If the exemption were extended further, it would be difficult for the government to have confidence in the quality of study undertaken overseas.

Recommendation

That the submission be declined.

Submissions

(4 – New Zealand Union of Students' Associations, 12 – New Zealand Nurses Organisation)

The submission supports the amendment so that student loans are available to people studying at overseas tertiary institutions. (*New Zealand Union of Students' Associations*)

The submission supports the provision of accessing funds for study in undergraduate education opportunities overseas. (*New Zealand Nurses Organisation*)

Comment

The bill gives the Commissioner the ability to grant borrowers studying overseas an interest-free loan. It should be noted that this change does not mean that borrowers can take out a loan for study that is undertaken overseas. Rather, it means that any existing loan they had before leaving New Zealand will be interest-free while they are studying.

Recommendation

That the submissions be noted.

Submission

(8 – *Association of Staff in Tertiary Education*)

The exemption should also be available to those undertaking post-graduate study.

Comment

The exemption is already available to those undertaking full-time post-graduate study overseas.

Recommendation

That the submission be noted.

INFORMATION MATCHING BETWEEN INLAND REVENUE AND CUSTOMS

Clauses 28, 36, 38 and 39

Submissions

(3 – New Zealand Law Society, 5 – Business NZ, 14 – B and K Holland, 15 – National Council of Women of New Zealand)

The proposed information match between Inland Revenue and the New Zealand Customs Service (Customs) is supported. However, the Law Society is concerned about access to the record of a borrower's travel. B and K Holland make the comment that the information match should not be used to "catch" people. The National Council of Women of New Zealand made the comment that the information match plus increased administration costs were seen as reasons for reassessing the value of the student loan scheme.

Comment

The information match between Inland Revenue and Customs will not create any additional information for Customs. The movement of borrowers to and from New Zealand will be recorded in Inland Revenue's computer system to track the periods for which borrowers are entitled to an interest-free loan (the main purpose of the match being to determine entitlement to interest-free loans). Processes will be put in place to ensure that only those staff members of Customs and Inland Revenue that require access to the information can obtain it. Inland Revenue is also considering the period for which historical information needs to be retained.

The National Council of Women of New Zealand's comments on reassessing the value of the student loan scheme are outside the scope of the bill.

Recommendation

That the submissions be noted.

LATE PAYMENT PENALTY RATE

Clause 17

Submissions

(2 – Association of University Staff of New Zealand, 4 – New Zealand Union of Students' Associations, 14 – B and K Holland)

The reduction in the penalty rate which applies to overdue payments is supported. B and K Holland claims he did not receive notice of the amounts due.

Recommendation

That the submissions be noted.

Submission

(5 – Business NZ)

The submission opposes the reduction in the penalty rate which applies to overdue payments, and considers that instead the focus should be on ensuring that borrowers are made aware that they may be entitled to hardship relief.

Comment

Once a borrower's repayment obligation becomes overdue it is subject to a compounding penalty which is equal to 26.82% a year. This has the effect of doubling the amount overdue every three years. While some borrowers in arrears will be entitled to hardship relief this is not necessarily the case. Officials consider that setting the late payment rate roughly equal to the rate which applies to many credit cards strikes the correct balance between providing a disincentive to clear other debt before student loan payments and a punitive penalty rate.

Recommendation

That the submission be declined.

HARDSHIP RELIEF

Clause 23

Submissions

(4 – New Zealand Union of Students’ Associations, 8 – Association of Staff in Tertiary Education, 9 – NZEI Te Riu Roa, 12 – New Zealand Nurses Organisation, 13 – New Zealand Council of Trade Unions, 14 – B and K Holland)

The changes being made are supported.

Recommendation

That the submissions be noted.

Submission

(14 – B and K Holland)

The Committee should look into the hardship of those borrowers who return home. The submitter claims that because he had not completed a university course he was not entitled to \$10,000 being offered by the government to help people return home.

Comment

Provisions are available so that repayment obligations can be negotiated, including to nil, if payment would cause serious hardship. The submission in relation to the \$10,000 government funding is beyond the scope of the bill.

Recommendation

That the submission be declined.

REMOVAL OF INTEREST WRITE-OFFS FOR BORROWERS INELIGIBLE FOR INTEREST-FREE LOANS

Clauses 16 and 23

Submission

(14 – B and K Holland)

The provisions which repeal the interest write-offs for borrowers ineligible for interest-free loans should be looked into. It appears government agencies are using tactics to bounce borrowers back and forth and yet there is no duty of care to give borrowers options.

Comment

The interest write-offs that existed prior to interest-free loans being introduced are being abolished because they are inconsistent with the policy intent of interest-free loans, which is to encourage borrowers to remain in, or return to, New Zealand.

Recommendation

That the submission be declined.

INTEREST WRITE-OFFS INCORRECTLY GIVEN

Clause 33

Submission

(14 – B and K Holland)

The clause in which interest write-offs are not required to be reversed in cases where borrowers have repaid their loans is supported.

Recommendation

That the submission be noted.

Submission

(14 – B and K Holland)

Borrowers overseas should be given the opportunity to make a full and complete repayment of their loan balances without interest during the amnesty period. If not, it could be construed that inner channels allowed some people who were notified that they could pay off their loans without interest while those people who had not sought out nor been provided with any amnesty information would be penalised while having to continue with interest.

The submitter claims that Inland Revenue has added interest without notification and Inland Revenue says that they cannot write-off interest.

Comment

Inland Revenue did not inform any borrowers that they could pay off their loans without interest.

Allowing overseas borrowers to pay off their loans balances without interest would mean that these borrowers would be better off than compliant resident borrowers who have paid interest in past years. In addition, there would be a significant fiscal cost to do this.

Recommendation

That the submission be declined.

Technical Amendments

CHARGING INTEREST ON LATE PAYMENT PENALTIES

Clause 18

Submissions

(1 – New Zealand Medical Students' Association, 4 – New Zealand Union of Students' Associations, 14 – B and K Holland)

The amendment which ensures that interest cannot be charged on an amount which has become overdue and thus subject to late payment penalties is supported.

Recommendation

That the submissions be noted.

ADVISING OF ABSENCE FROM NEW ZEALAND

Clause 10

Submissions

(2 – Association of University Staff of New Zealand, 4 – New Zealand Union of Students' Associations, 14 – B and K Holland)

The amendments extending the length of time by which borrowers can be overseas without informing Inland Revenue from three months to six months is supported. This differentiates longer holidays from more permanent changes in living circumstances and will simplify matters for borrowers.

Recommendation

That the submissions be noted.

Submission

(14 – B and K Holland)

The submission notes that in their personal case Inland Revenue did not follow through with sending assessments and their loan went out of control. Inland Revenue should ensure that where a permanent address was listed on the loan contract of the mother, Inland Revenue should attempt to notify borrowers of assessments and changes.

Comment

As noted earlier, Inland Revenue does not generally hold copies of loan contracts and, even if it did, it is likely that the address details would no longer be valid in many cases. There are also privacy issues associated with sending borrowers' details to a person other than the borrower without specific consent. Inland Revenue already has a process in place whereby borrowers can nominate another person to act on their behalf.

Inland Revenue sends assessments annually where a valid address is held. In addition, statements of the borrower's account are sent twice a year.

Recommendation

That the submission be noted.

APPLICATIONS IN WRITING

Clauses 21 and 23

Submission

(1 – New Zealand Medical Students' Association)

The submission supports the amendment which removes the requirement that applications for relief from penalties must be made in writing in all circumstances.

Recommendation

That the submission be noted.

Submission

(3 – New Zealand Law Society)

Allowing applications for relief from penalties or having to meet a repayment obligation on hardship grounds to be made by telephone may mean that there is insufficient evidence to support the decision the Commissioner reaches.

Comment

The amendment is intended to streamline applications for relief if Inland Revenue already holds evidence to support an application made by a borrower. For example, most borrowers are salary and wage earners and Inland Revenue receives income details from employers on a monthly basis. If there is any doubt about the information which a borrower is supplying by telephone, a written request may still be required. Inland Revenue also records all telephone calls made to one of its call centres.

Recommendation

That the submission be noted.

APPLICATION OF CARE AND MANAGEMENT

Submission

(Matter raised by officials)

The Tax Administration Act and the Student Loan Scheme Act should be amended to allow the Commissioner to correct interest and to apply the care and management provisions to correct student loan balances which are wrong as a result of administrative error.

Comment

It has been Inland Revenue's position that care and management applies to the Student Loan Scheme Act. In the past Inland Revenue has used care and management to ensure that miscalculated loan balances, due to administrative errors, do not result in borrowers having to suffer the consequences of those errors. Practically, this means that interest that has been over-charged as a result of error has been refunded but under-charged interest has been written off. However, a review of the care and management provisions has concluded that there is uncertainty as to its application. The scope of the care and management provisions, as it applies to student loans is limited to repayment obligations and does not encompass interest.

Another issue identified as part of this work is that there is a provision which, on a literal interpretation, may prevent the Commissioner issuing an amended statement of re-calculated interest.

Recommendation

That the submission be accepted.

NEED FOR NEW PART 3

Clause 9

Submission

(15 – National Council of Women of New Zealand)

The Council appreciates the need for the new Part 3 of the bill as being less cumbersome than inserting a myriad of deletions and amendments for previous clauses.

Recommendation

That the submission be noted.

OVERDUE AMOUNTS OF LESS THAN \$250

Clause 22

Submission

(Matter raised by officials)

The amount of arrears which Inland Revenue may refrain from collecting should be increased from \$250 to \$333.

Comment

With the reduction in the penalty rate from 2.0 to 1.5%, the amount which does not incur any late-payment penalty increases to \$333. It is uneconomical to pursue such small amounts. Any amount which Inland Revenue refrains from collecting will not be written off but will be payable in a future year.

Recommendation

That the submission be accepted.

SMALL BALANCE THRESHOLD

Clause 20

Submission

(Matter raised by officials)

The small balance threshold for borrowers' end-of-year repayment obligations and employer repayment deductions should be increased from \$5 to \$20 only for debit amounts.

Comment

Inland Revenue currently refunds income tax which is overpaid by more than \$5 or and write-off amounts underpaid of \$20 or less. It would be inconsistent to have a higher overpaid student loan amount that is not refunded.

Recommendation

That the submission be accepted.

Other issues raised by submitters

DIFFERENTIATING BETWEEN BORROWERS WHO ARE OVERSEAS AND THOSE IN NEW ZEALAND

Submission

(14 – B and K Holland)

The Committee should recognise that a fundamental unfairness exists to “re-categorise” loan borrowers simply because they move overseas. A burden of financial duty is placed on them which is not applied to Kiwis living in the country.

Comment

Interest-free loans are available only to borrowers living in New Zealand. Therefore, there is a need to distinguish between New Zealand-based and overseas-based borrowers. As noted earlier, there are also reasons why officials consider it necessary to have different repayment obligations for New Zealand-based and overseas-based borrowers.

Recommendation

That the submission be noted.

INTEREST-FREE LOANS FOR BORROWERS WORKING OVERSEAS FOR A CHARITABLE ORGANISATION

Submission

(1 – New Zealand Medical Students' Association)

Interest-free loans for graduates undertaking work overseas for charitable organisations is supported.

Comment

The Student Loan Scheme Act 1992 allows the Commissioner of Inland Revenue to grant borrowers a full interest write-off (which gives effect to interest-free loans) if they are working as a volunteer or for token payment for a charitable organisation named in regulations to the Act.

Recommendation

That the submission be noted.

INTEREST

Submissions

(4 – New Zealand Union of Students' Associations, 6 – K Hays, 7 – L Clarke, 14 – B and K Holland)

The concept of interest should be completely removed from the Student Loan Scheme. *(New Zealand Union of Students' Associations)*

Students who incurred a student loan in the 1990s should have their interest reduced. Their loans have grown so large that they have despaired of ever repaying the loan and many have left the country. *(K Hays)*

The interest rate should be reduced. Repayment of the principal amount, plus a 1% administration fee and perhaps even an inflation contribution would make the target of repayment far more achievable for borrowers. *(L Clarke)*

The Committee should recognise an interest rate should be set which is not higher than commercial bank rates and is only a small figure designed to encourage loan seekers to be “advantaged by a student loan”. *(B and K Holland)*

Comment

Since April 2006, borrowers living in New Zealand are eligible for interest-free loans (including borrowers who took out their loans in the 1990s). Generally, only those borrowers who are living overseas for more than six months are ineligible for an interest-free loan.

The policy intention of interest-free student loans was to encourage borrowers to remain in, or return to, New Zealand and to contribute to New Zealand's society and economy. Completely removing interest or reducing the interest rate for borrowers living overseas would be inconsistent with this aim and would have a potentially significant fiscal cost. The interest rate is set on an annual basis and is the average of the 10-year bond rate plus a small margin to cover administration costs. The interest rate for the current tax year is 6.9 percent.

Recommendation

That the submissions be declined.

CAUSES OF PERMANENT LONG-TERM DEPARTURES FROM NEW ZEALAND

Submission

(5 – Business NZ)

More work should be done to understand the key causes of permanent long-term departures from New Zealand and the points at which the government can or should intervene.

Comment

Officials agree that it is not clear whether, or to what extent, student loans are a factor in borrowers going overseas. Work to understand the causes of permanent long-term departures is beyond the scope of the bill.

Recommendation

That the submission be declined.

ABILITY TO GRANT BORROWERS AN EXEMPTION TO THE 183-DAY INTEREST-FREE LOANS REQUIREMENT

Submission

(15 – National Council of Women of New Zealand)

The submission supports the Commissioner being able to grant borrowers living overseas an exemption to the 183-day requirement in certain circumstances, meaning that such borrowers will be eligible for an interest-free loan.

Recommendation

That the submission be noted.

ACCESS TO FUNDING FOR NURSING EDUCATION

Submissions

(12 – New Zealand Nurses Organisation)

The student loan criteria for length of courses eligible for a student loan should include return-to-nursing programmes.

The Committee should look at amendments that would make it possible for “Return to Practice” vocational short courses to be eligible for student loans.

Future initiatives for nurses and midwives to access student loans or allowances are needed as New Zealand is competing internationally to retain nursing graduates for the health workforce in New Zealand.

Comment

The Student Loan Scheme Act 1992 deals with the repayment of student loans, not eligibility criteria for obtaining a student loan or student allowances. The submissions are therefore beyond the scope of the bill.

Recommendation

That the submissions be declined.

EFFECT OF STUDENT LOANS

Submissions

(14 – B and K Holland)

The Committee should:

- realise that amendments of the nature of those in the bill have been written by elite members of the law using a language that is designed to not only exclude, but to preclude any ability for the average citizen to understand. The Committee will therefore not be offering help for the masses of people who have been swallowed by the student loan scheme, but instead will push them further away from being able to take any personal responsibility for their financial status with the government;
- note the submitter's personal case as an example of how the loan scheme did not educate or inform the borrower about how the debt could get out of hand;
- seek better language for loan contracts and any amendments put into action with examples of what can occur with loan and debt build up;
- seek better loan policies so that younger, inexperienced people are not disadvantaged by loan agreements and legal and governmental jargon, thus signing away their futures.

Recommendation

That the submissions be noted.

ROLE OF INLAND REVENUE

Submission

(14 – B and K Holland)

Although the submitter had a permanent address of their mother listed on the student loan contract pages Inland Revenue failed in its duty to provide the submitter with thorough information before taking out the loan and failed in its contractual agreement to send assessments. As a result, the debt contracted for has multiplied exponentially and instead of helping the submitter's chances to get ahead as intended, the student loan scheme has hindered the submitter's capacity to do so.

Recommendation

That the submission be noted.

STUDENT LOAN SCHEME

Submission

(14 – B and K Holland)

The Committee should call into action public policy so that the marginalised and impoverished strata of society is not “funding” the government through this “investment scheme” called the Student Loan Scheme of 1992 and all amendments made to that scheme.

Comment

The submission is beyond the scope of the bill.

Recommendation

That the submission be declined.

SEPARATE AGENCY FOR STUDENT LOANS

Submission

(14 – B and K Holland)

The Committee should recommend that a separate distinct agency be set up to operate, facilitate, administer and keep track of all past, present and future student loan contracts.

Comment

The submission is beyond the scope of the bill.

Recommendation

That the submission be declined.