

House of Representatives
Supplementary Order Paper

Tuesday, 14 December 2010

Student Loan Scheme Bill

Proposed amendments

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

Clause 2(1)

To omit “**208 to 210**” (line 4 on page 12) and substitute “**197A, 208 to 210,**”.

New clause 197A

To insert the following clause after *clause 197* (after line 22 on page 114):

197A Commissioner may exercise rights in loan contracts to recall loans

- (1) The Commissioner may exercise any right or power in a loan contract to recall or demand repayment of all or any of the loan advance or the loan balance.
 - (2) To avoid doubt, the right or power may be exercised in the name of the Commissioner without any assignment by the lender.
 - (3) This section applies—
 - (a) whether or not the Commissioner is the lender under the loan contract or a person on whom the loan contract confers the right or power; and
 - (b) despite **section 197** or anything in the loan contract or any other Act; and
 - (c) whether the loan contract was signed before or after the date on which this section comes into force.
-

Explanatory note

This Supplementary Order Paper proposes a change to the Student Loan Scheme Bill that is currently before the Finance and Expenditure Select Committee.

If included in the Bill, the change would entitle the Commissioner of Inland Revenue to exercise existing powers in student loan contracts that provide for the full amount of student loans to be recalled or repaid on demand.

Currently, the Commissioner of Inland Revenue collects only amounts that are due and owing, and has power under the relevant Acts to enforce only the payment of arrears.

In addition, the student loan contracts confer various powers to recall the full amount of the loan, on demand, in certain circumstances. However, the student loan contracts over the years since 1992 have varied as to—

- which Crown agency is entitled to exercise the recall powers, for example, whether it is Inland Revenue, the Ministry of Education, the Ministry of Social Development, or StudyLink;
- the amount that can be demanded, for example, whether it is the loan plus both interest and penalties, or just the loan and interest;
- the circumstances in which the recall powers can be used. For example, the 1992 loan contract provides that the balance of the loan account together with interest payable on that balance becomes repayable upon demand if, among other things, a borrower makes default for a period of not less than 2 years in the payment of any amount payable under the loan agreement, or fails to comply with the borrower's obligations as to provision of information. The 2010 loan contract provides that a borrower must repay the loan balance and all interest in full immediately on demand if the borrower, among other things, does not pay any amount due under the Act, does not comply with obligations as to the provision of information, or has not complied with a provision of the Act for 2 years or more.

The powers that would be conferred on the Commissioner of Inland Revenue by this Supplementary Order Paper are no greater than the powers in the loan contracts as signed by the borrowers in terms of the amount that can be demanded and the circumstances in which the recall powers can be exercised.

The change would come into force on the day after the Student Loan Scheme Bill receives the Royal assent.
