Reprint
as at 12 April 2012

Student Loan Scheme Act 2011

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Note
Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Inland Revenue Department.

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Amendments to other enactments

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Student Loan Scheme Act 2011.

2 Commencement

(1) Sections 63, 215 to 217, 222, and 226(1) and Schedule 8 come into force on the day after the date on which this Act receives the Royal assent.

(2) Section 219 comes into force on 1 March 2012.

(3) Subpart 2 of Part 1, subpart 4 of Part 4, sections 173 to 175, 187, 188, 201, 210 to 214, and 218, and Schedule 5 come into force on 1 January 2012.

(4) Sections 51 and 52 come into force on 1 April 2013.

(5) Schedule 7 comes into force on 1 April 2013 unless, before that date, the Governor-General by Order in Council appoints a later date; and 1 or more orders may be made bringing different clauses of Schedule 7 into force on different later dates.

(6) The rest of this Act comes into force on 1 April 2012.

Part 1
Preliminary matters, loan advances, and New Zealand-based and overseas-based borrowers

Subpart 1—Preliminary provisions

3 Purposes

The purposes of this Act are to—

(a) provide for the effective administration of student loans; and

(b) provide for the collection of student loan repayments; and

(c) provide transparency about student loans so that borrowers understand their obligations for those loans; and

(d) encourage borrowers to repay their student loans at the earliest possible time.

4 Interpretation

(1) In this Act, unless the context otherwise requires,—

adjusted net income has the meaning given to it in section 88A

annual gross income has the same meaning as in section BC 2 of the Income Tax Act 2007, except that for a borrower who is a non-resident it includes non-residents' foreign-sourced income as if the borrower were a New Zealand resident

annual repayment threshold means—

(a) $19,084 for the tax year commencing on 1 April 2012 and for each subsequent tax year to which regulations referred to in paragraph (b) do not apply; or

(b) the amount prescribed by regulations for a tax year and subsequent tax years

annual total deduction has the same meaning as in section BC 3 of the Income Tax Act 2007, except that for a borrower who is a non-resident it includes non-residents' foreign-sourced deductions that may be offset against the borrower's non-residents' foreign-sourced income as if the borrower were a New Zealand resident

base interest rate means the interest rate that applies for a tax year, calculated in accordance with the formula—

$$a\% = b\% + 0.74\%$$

where—

a% rounded to the nearest 1 decimal place is the interest rate for the relevant tax year

b% is the average, rounded to the nearest 2 decimal places, of the monthly average 10-year government bond yield rates published by the Reserve Bank of New Zealand for the 5 years ending in December in the year that precedes the relevant tax year

borrower means a person who has received or been charged with a loan advance and who has not fully repaid his or her consolidated loan balance

borrower deduction means a deduction from a borrower's salary or wages in accordance with section 39

challenge, for the purposes of subpart 5 of Part 4, has the same meaning as in section 3(1) of the Tax Administration Act 1994

charity means a charitable organisation that is specified in regulations

chief executive means the chief executive of the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 1964

Commissioner means the Commissioner of Inland Revenue as defined in section 3(1) of the Tax Administration Act 1994

Commissioner deduction means a deduction from a borrower's salary or wages in accordance with section 38

consolidated loan balance means the total amount incurred by a borrower and outstanding under the student loan scheme and this Act, consisting of—

(a) the loan balance; and

(b) any unpaid amount; and

(c) any interest calculated and accrued under section 135(1)

declaration of pre-taxed income means a declaration in accordance with section 74

employer has the same meaning as in paragraphs (a) and (b) of the definition of **employer** in section YA 1 of the Income Tax Act 2007

employer or PAYE intermediary means an employer or a person acting as a PAYE intermediary for the employer

excess repayment has the meaning given to it in section 119

extra pay has the same meaning as in section RD 7 of the Income Tax Act 2007

formally notify has the meaning given to it in section 213

income tax has the same meaning as in section YA 1 of the Income Tax Act 2007

inform has the meaning given to it in section 210

interim payment means the amount that a borrower is obliged to pay towards, as applicable,—

(a) the next tax year's pre-taxed repayment obligation in accordance with section 82 or 83 and section 84 or 85; or

(b) the next tax year's other income repayment obligation in accordance with section 95 or 96 and section 97 or 98

late filing penalty means a penalty imposed under section 155

late payment interest means interest that a borrower is liable to pay under section 139(1)

lender means the Crown acting by and through the Minister who is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 1964

loan advance means all—

(a) money that is advanced by the loan manager to a borrower under the student loan scheme; and

(b) student loan establishment fees charged by the loan manager to the borrower under section 14; and

(c) student loan establishment fees and any other type of fee charged by the loan manager to the borrower in accordance with a loan contract

loan advance debt means the debt created by the loan manager making or charging a loan advance to a borrower

loan balance—

(a) means the following to the extent that they have not been repaid or paid:
  (i) loan advances; and
  (ii) loan interest that has been added to a borrower's loan balance under section 135(2); and
  (iii) late filing penalties; and
  (iv) student loan shortfall penalties; and
  (v) annual administration fees charged under section 63L of the Student Loan Scheme Act 1992 or section 189 of this Act; and
  (vi) an amount that is added to the loan balance in accordance with clause 6 of Schedule 6; but

(b) does not include an unpaid amount

loan contract means any loan agreement or contract entered into by the lender and the borrower under the student loan scheme

loan interest means interest that a borrower is liable to pay under section 134(1)

loan manager means any person who is appointed by the lender to make, charge, and administer loan advances under the student loan scheme

net pre-taxed income has the meaning given to it in section 73

New Zealand-based has the meaning given to it in section 22

New Zealand resident has the same meaning as in section YA 1 of the Income Tax Act 2007

non-resident means a person who is not a New Zealand resident

notify has the meaning given to it in section 211

notify a person in writing has the meaning given to it in section 212

other income, in relation to a tax year, means,—

(a) if a borrower is required to file a return of income for that tax year, the borrower's adjusted net income for that tax year other than from pre-taxed income:

(b) if a borrower is required to provide details of his or her annual gross income and annual total deductions under section 114 for that tax year, the borrower's adjusted

net income for that tax year other than from pre-taxed income

other income repayment obligation means the repayment obligation of a New Zealand-based borrower for the adjusted net income the borrower derives for a tax year, calculated in accordance with section 90 or 91

overseas-based has the meaning given to it in section 23

overseas-based repayment obligation means the repayment obligation of an overseas-based borrower under subpart 4 of Part 2

pay period, for a borrower who receives a payment of salary or wages, means the period for which that payment is payable

PAYE intermediary has the same meaning as in section YA 1 of the Income Tax Act 2007

PAYE rules has the same meaning as in section YA 1 of the Income Tax Act 2007

pre-taxed income means annual gross income derived from 1 or more of the following:

(a) interest, as defined in section YA 1 of the Income Tax Act 2007:

(b) a dividend, as defined in sections CD 3 to CD 20 of the Income Tax Act 2007:

(c) a taxable Māori authority distribution, as defined in section HF 7 of the Income Tax Act 2007:

(d) salary or wages from employment as a casual agricultural employee, as defined in section YA 1 of the Income Tax Act 2007:

(e) salary or wages from employment as an election day worker, as defined in section YA 1 of the Income Tax Act 2007

pre-taxed repayment obligation means the repayment obligation of a New Zealand-based borrower for the pre-taxed income the borrower derives for a tax year, calculated in accordance with section 77 or 78

primary employment earnings has the same meaning as in section 3(1) of the Tax Administration Act 1994, except that it—

(a) includes an extra pay paid to the borrower in the pay period; but

(b) does not include—

(i) salary or wages from employment as a casual agricultural employee, as defined in section YA 1 of the Income Tax Act 2007:

(ii) salary or wages from employment as an election day worker, as defined in section YA 1 of the Income Tax Act 2007

provisional tax has the same meaning as in section YA 1 of the Income Tax Act 2007

provisional tax rules has the same meaning as in section YA 1 of the Income Tax Act 2007

regulations means regulations made under this Act

remaining repayment means the amount that a borrower is obliged to pay towards, as applicable,—

(a) a pre-taxed repayment obligation in accordance with section 80 and section 81 or 85:

(b) an other income repayment obligation in accordance with section 93 and section 94 or 98

repayment obligation means the requirements of so much of the following as applies to a borrower for a particular tax year:

(a) standard deductions:

(b) Commissioner deductions for the purposes set out in section 49(1)(a):

(c) pre-taxed repayment obligation:

(d) other income repayment obligation:

(e) overseas-based repayment obligation

repayment percentage means 10% or any other rate prescribed by regulations

return of income means a return of income required under section 33 of the Tax Administration Act 1994

salary or wage deduction means—

(a) a standard deduction:

(b) a Commissioner deduction:

(c) a borrower deduction

salary or wages has the same meaning as in section RD 5 of the Income Tax Act 2007, except that it—

(a) includes an extra pay; but

(b) does not include salary or wages from employment as—

(i) a casual agricultural employee, as defined in section YA 1 of the Income Tax Act 2007; or

(ii) an election day worker, as defined in section YA 1 of the Income Tax Act 2007

secondary employment earnings has the same meaning as in section 3(1) of the Tax Administration Act 1994, except that it—

(a) includes an extra pay; but

(b) does not include—

(i) salary or wages from employment as a casual agricultural employee, as defined in section YA 1 of the Income Tax Act 2007:

(ii) salary or wages from employment as an election day worker, as defined in section YA 1 of the Income Tax Act 2007

significant over-deduction means a standard deduction that—

(a) is more than the amount that is required to be deducted in accordance with section 37; and

(b) exceeds the threshold determined by the Commissioner in accordance with section 63(1)

significant under-deduction means a standard deduction that—

(a) either—

(i) is required to be made but is not; or

(ii) is less than the amount that is required to be deducted in accordance with section 37; and

(b) exceeds the threshold determined by the Commissioner in accordance with section 63(1)

special deduction rate means a special deduction rate specified in a special deduction rate certificate that is issued in relation to a borrower under—

(a) section 45 (special deduction rate certificate for unused repayment threshold); or

(b) *[Repealed]*

(c) section 148 (special deduction rate certificate for hardship relief)

standard deduction means a deduction from a borrower's salary or wages in accordance with section 36(2)

student loan means any loan assistance provided to a borrower by means of a loan contract

student loan scheme means the scheme established by the Crown on 1 January 1992 to provide loan assistance to tertiary students, as amended from time to time

student loan shortfall penalty means a student loan shortfall penalty imposed on a borrower by the Commissioner under section 159

tax file number has the same meaning as in section YA 1 of the Income Tax Act 2007

tax year has the same meaning as in section YA 1 of the Income Tax Act 2007

unpaid amount has the meaning given to it in section 5.

(2) A reference to a borrower—

(a) **estimating his or her pre-taxed repayment obligation** is a reference to a borrower making a fair and reasonable estimate of his or her pre-taxed repayment obligation for a tax year in accordance with section RC 7 of the Income Tax Act 2007, as applied by section 86 and Schedule 3 of this Act; and

(b) **estimating his or her other income repayment obligation** is a reference to a borrower making a fair and reasonable estimate of his or her other income repayment obligation for a tax year in accordance with section RC 7 of the Income Tax Act 2007, as applied by section 99 and Schedule 4 of this Act.

Compare: 1992 No 141 ss 2, 38AE(1)(b)

Section 4(1) **adjusted net income**: inserted (with effect on 1 April 2012), on 12 April 2012, by section 5(7) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 4(1) **consolidated loan balance** paragraph (b): amended (with effect on 1 April 2012), on 12 April 2012, by section 5(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 4(1) **consolidated loan balance** paragraph (c): inserted (with effect on 1 April 2012), on 12 April 2012, by section 5(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 4(1) **net income**: repealed (with effect on 1 April 2012), on 12 April 2012, by section 5(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 4(1) **net pre-taxed income**: inserted (with effect on 1 April 2012), on 12 April 2012, by section 5(7) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 4(1) **other income** paragraph (a): amended (with effect on 1 April 2012), on 12 April 2012, by section 5(3) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 4(1) **other income** paragraph (b): amended (with effect on 1 April 2012), on 12 April 2012, by section 5(3) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 4(1) **other income repayment obligation**: amended (with effect on 1 April 2012), on 12 April 2012, by section 5(4) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 4(1) **significant over-deduction**: amended (with effect on 1 April 2012), on 12 April 2012, by section 5(5) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 4(1) **special deduction rate** paragraph (b): repealed (with effect on 1 April 2012), on 12 April 2012, by section 5(6) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

5 Meaning of unpaid amount

(1) In this Act, **unpaid amount**, in relation to a borrower, means each of the following to the extent that it, and any late payment interest that has been added to it under section 139(2), has not been paid on or before its due date and has not been decreased, reduced, or written off by the Commissioner:

(a) a remaining repayment:

(b) an interim payment default:

(c) an overseas-based instalment default:

(d) a consolidated loan balance that is payable as a result of a demand made under a loan contract:

(e) any part of a loan advance or a loan balance that the Commissioner has recalled or demanded repayment of under section 204 of this Act or section 63N of the Student Loan Scheme Act 1992.

(2) In this section,—

due date,—

(a) in relation to interim payment defaults, means,—

(i) for any instalment of an interim payment due on or before the third instalment date, the date specified in Schedule 3 of the Income Tax Act 2007 as the date for payment of the third instalment:

(ii) for any instalment of an interim payment due after the third instalment date, the date specified by the Commissioner as the due date; and

(b) in relation to an overseas-based instalment default, means—

(i) the last day of the tax year; or

(ii) if the Commissioner has determined the instalments that must be paid under section 112(3) or 115(1)(d), the dates determined by the Commissioner; and

(c) in all other cases, has its ordinary meaning

interim payment default means, as applicable,—

(a) the lesser of—

(i) the difference between 105% of a borrower's pre-taxed repayment obligation or other income repayment obligation for an immediately preceding tax year and the amount of interim payments made for a tax year; and

(ii) the difference between a borrower's pre-taxed repayment obligation or other income repayment obligation for a tax year and the amount of interim payments made for that tax year; and

(iii) the difference between the amount of a borrower's interim payments last notified by the Commissioner as due by the third instalment date for a tax year and the amount of the interim payments made for that tax year:

(b) the amount of any instalment of an interim payment due after the third instalment date that is not paid on or before the due date

overseas-based instalment default means an instalment of an overseas-based borrower's repayment obligation for a tax year that must be paid in accordance with section 112 or 115(1)(d).

6 Application of Act

(1) This Act applies—

(a) to all persons who—

(i) are borrowers under the Student Loan Scheme Act 1992 on the close of 31 March 2012; or

(ii) apply for a student loan on or after 1 April 2012; or

(iii) are borrowers under this Act; and

(b) to all student loans (regardless of when they were entered into) on 1 April 2012 in relation to the tax year starting on 1 April 2012 and every subsequent year; and

(c) to liabilities to repay student loans for the tax year starting on 1 April 2012 and every subsequent year; and

(d) to income derived by a borrower on or after 1 April 2012; and

(e) to actions or omissions that occur on or after 1 April 2012 in relation to a matter under this Act.

(2) However, regulations made under section 216, sections 218 to 220, and Schedules 5 and 6 override subsection (1).

Compare: 1992 No 141 s 1(3)

7 Application of Act to bonded scholarships

(1) An amount repayable under a bonded scholarship (the **default amount**), along with interest payable in accordance with the scholarship agreement, may be recovered under this Act as if—

(a) the default amount were a loan advance; and

(b) the recipient of the scholarship were a borrower; and

(c) the scholarship agreement were a loan contract.

(2) Despite any enactment or rule of law, if a provision in an agreement for a bonded scholarship conflicts with this section, this section prevails.

(3) In this section, **bonded scholarship** means an allowance or agreement that is declared under section 307AC of the Education Act 1989 to be a bonded scholarship.

Compare: 1992 No 141 s 2A

8 Act binds the Crown

This Act binds the Crown.

Compare: 1992 No 141 s 3

Subpart 2—Establishment of student loan

9 Purposes of sections 10, 11, 16, and 17

The purposes of sections 10, 11, 16, and 17 are to authorise the transfer of information between the loan manager and the Commissioner so as to—

(a) enable the loan manager to confirm the identity of a person who applies for a student loan; and

(b) enable the Commissioner to inform borrowers about their consolidated loan balance; and

(c) facilitate the transfer of loan advance debts from the loan manager to the Commissioner; and

(d) enable the collection of borrowers' consolidated loan balances.

10 Loan manager must notify Commissioner of persons who apply for student loan

(1) The loan manager must notify the Commissioner of all persons who apply for a student loan.

(2) That notification must include the following information:

(a) the applicant's full name; and

(b) the applicant's tax file number; and

(c) the applicant's date of birth; and

(d) any further information specified in regulations.

(3) The Commissioner and the loan manager may, for the purpose of this section, determine by written agreement between them—

(a) the frequency with which that notification must be supplied; and

(b) the form in which that notification must be supplied; and

(c) the method by which that notification must be supplied.

(4) Subsection (3)(b) and (c) apply despite section 211.

11 Commissioner must confirm information provided by loan manager

(1) The Commissioner must notify the loan manager—
- (a) whether the information that is provided in accordance with section 10 about an applicant for a student loan is consistent with the information held by the Commissioner; and
- (b) if the information differs from that held by the Commissioner, of the matter in relation to which the information differs.

(2) The Commissioner and the loan manager may, for the purpose of this section, determine by written agreement between them—
- (a) the frequency with which that notification must be supplied; and
- (b) the form in which that notification must be supplied; and
- (c) the method by which that notification must be supplied.

(3) Subsection (2)(b) and (c) apply despite section 211.

12 Loan manager must provide copy of loan contract

The loan manager must provide a person who applies for a student loan with a copy of the loan contract before the day that is 6 working days after the day on which the person enters into the contract.

Compare: SR 2010/341 r 5

13 Certain information must be disclosed in loan contract

Every loan contract entered into after 31 March 2012 must specify the following information that applies at the date the loan contract is entered into:
- (a) the annual repayment threshold:
- (b) the base interest rate:
- (c) the repayment percentage:
- (d) the amount of the student loan establishment fee charged under section 14:
- (e) the amount of the annual administration fee charged under section 189:
- (f) the borrower's right, under section 15, to cancel the loan contract:

(g) the borrower's right to object to the details of loan advances set out in a notification given to the borrower in accordance with section 18:

(h) the timeframe within which an objection by a borrower under section 167 must be received by the loan manager (*see* section 18(2)(e)):

(i) any further information specified in regulations.

Section 13(g): replaced (with effect on 1 April 2012), on 12 April 2012, by section 6 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 13(h): replaced (with effect on 1 April 2012), on 12 April 2012, by section 6 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

14 Student loan establishment fee

A student loan establishment fee of $60 (or any other amount prescribed by regulations) must be charged by the loan manager to a borrower each time the borrower enters into a loan contract after 31 March 2012.

15 Right to cancel loan contract

(1) A borrower may cancel his or her loan contract by—

(a) formally notifying the loan manager of the cancellation within 7 working days of the date on which the borrower's loan entitlement letter was issued; and

(b) returning any loan advance received by the borrower under the loan contract to the loan manager within a time frame set by the loan manager; and

(c) paying any interest accrued on any loan advance received by the borrower under the loan contract to the loan manager within a time frame set by the loan manager.

(2) If a borrower cancels his or her loan contract in accordance with subsection (1), the loan manager must waive the student loan establishment fee charged under section 14.

16 Loan manager must notify Commissioner of borrower's details

(1) The loan manager must notify the Commissioner—

(a) of every person who becomes a borrower; and

(b) if the loan manager becomes aware that any of the information provided by the loan manager is incorrect or has changed.

(2) That notification must—

(a) include the following information:

(i) the date on which the borrower's loan entitlement letter was issued; and

(ii) the borrower's full name; and

(iii) the borrower's tax file number; and

(iv) the borrower's date of birth; and

(v) all current postal addresses for the borrower; and

(vi) all current electronic addresses for the borrower (if the borrower has any); and

(vii) all current telephone numbers for the borrower (if the borrower has any); and

(viii) any further information specified in regulations; and

(b) if applicable, indicate which information has been corrected or changed.

(3) The Commissioner and the loan manager may, for the purpose of this section, determine by written agreement between them—

(a) the frequency with which that notification must be supplied; and

(b) the form in which that notification must be supplied; and

(c) the method by which that notification must be supplied.

(4) Subsection (3)(b) and (c) apply despite section 211.

17 Loan manager must transfer loan advance debts to Commissioner for collection

(1) After a loan advance is made or charged to a borrower, the loan manager must—

(a) transfer the loan advance debt to the Commissioner for collection; and

(b) notify the Commissioner of the borrower to whom that debt belongs.

(2) The Commissioner and the loan manager may, for the purpose of this section, determine by written agreement between them—

(a) the frequency with which transfers must occur; and
(b) the form in which transfers and notification must occur; and
(c) the method by which transfers and notification must occur.

(3) Subsection (2)(b) and (c) apply despite section 211.

Compare: 1992 No 141 s 4

18 Commissioner must notify borrowers of loan advances

(1) The Commissioner must notify a borrower in writing if a loan advance debt that belongs to that borrower is transferred to the Commissioner in accordance with section 17(1).

(2) The notification must—
(a) specify the period to which it applies, which must not be greater than 6 months; and
(b) set out the details of all loan advances that have been made or charged to the borrower (and that the Commissioner has been notified of in accordance with section 17(1)) during that period; and
(c) specify the borrower's consolidated loan balance on the first and last days of the period to which it applies; and
(d) set out the borrower's right, under sections 167 to 171, to object to the details of a loan advance set out in the notification; and
(e) state the date on or before which an objection by the borrower under section 167 must be received by the loan manager, which must be at least 31 days after the date on which the borrower is notified in accordance with this section; and
(f) provide any other information that the Commissioner considers appropriate.

19 Commissioner must inform borrowers about consolidated loan balance

(1) The Commissioner—
(a) must inform borrowers about their consolidated loan balances; and
(b) must keep that information up to date.

(2) For the purposes of subsection (1), the Commissioner must provide the following information for each borrower:
- (a) details of all loan advances that have been made or charged to the borrower (and that the Commissioner has been notified of in accordance with section 17(1)); and
- (b) details of the date and amount of any interest added to the borrower's loan balance in accordance with a loan contract or this Act; and
- (c) details of the date and amount of any penalties charged to the borrower in accordance with a loan contract or this Act; and
- (d) details of the date and amount of all fees charged to the borrower in accordance with a loan contract or this Act; and
- (e) details of all repayments that have been made; and
- (f) the current base interest rate; and
- (g) any other information that the Commissioner considers appropriate.

(3) The Commissioner must correct that information if the Commissioner becomes aware that any of the information is incorrect or has changed.

Compare: 1992 No 141 ss 5, 13(1), 43(1)

20 Borrower must be notified of certain changes to obligations

(1) The Commissioner must notify a borrower if—
- (a) a change is made to the borrower's obligations in relation to his or her student loan; and
- (b) that change increases the borrower's obligations in a more than minor way, including a change to—
  - (i) the borrower's repayment obligation; or
  - (ii) the repayment percentage; or
  - (iii) the base interest rate; and
- (c) that change is made—
  - (i) without the borrower's prior agreement; or
  - (ii) by, or as a consequence of, an enactment.

(2) Details of the change must be notified to the borrower within 7 months after the day on which the change is made.

(3) However, subsections (1) and (2) do not apply if the Commissioner is aware that he or she has incorrect contact details for the borrower or cannot reasonably locate the borrower.

Compare: SR 2010/341 r 8

Subpart 3—Determining whether borrowers are New Zealand-based or overseas-based

21 Overview of being New Zealand-based or overseas-based

(1) This subpart specifies when a borrower is treated as being New Zealand-based and when a borrower is treated as being overseas-based.

(2) Under Part 2, different repayment obligations apply to a borrower depending upon whether that borrower is New Zealand-based or overseas-based.

(3) Under subpart 1 of Part 4, a borrower is liable to pay loan interest for each day that that borrower is overseas-based.

(4) This section is intended as a guide only.

22 Meaning of New Zealand-based

(1) The following persons are treated as being New Zealand-based:

(a) a borrower who is physically in New Zealand, or treated as being physically in New Zealand under section 25(1), for a period of 183 consecutive days:

(b) a borrower who—

(i) is physically absent from New Zealand for a period, or aggregated periods, of no more than 31 days during a period of 183 consecutive days; but

(ii) is physically in New Zealand, or treated as being physically in New Zealand under section 25(1), for the balance of that 183-day period, including the first day of that period.

(2) A period of 183 consecutive days may include any days before the day on which a person becomes a borrower.

(3) For the purposes of subsection (1), a borrower is treated as being New Zealand-based—

(a) from the later of—

(i) the day on which he or she became a borrower; and

(ii) the first day of the 183-day period; and

(b) for each subsequent day.

(4) A borrower ceases to be New Zealand-based if that borrower becomes overseas-based.

Compare: 1992 No 141 s 38AB(1), (2)

23 Meaning of overseas-based

(1) The following persons are treated as being overseas-based:

(a) a borrower who is not treated as being New Zealand-based under section 22:

(b) a New Zealand-based borrower who is physically absent from New Zealand for a period of 184 consecutive days:

(c) a New Zealand-based borrower who—

(i) is physically in New Zealand, or treated as being physically in New Zealand under section 25(1), for a period, or aggregated periods, of 31 days or less during a period of 184 consecutive days; and

(ii) is physically absent from New Zealand for the balance of that 184-day period, including the first day of that period.

(2) A period of 184 consecutive days may include any days before the day on which a person becomes a borrower.

(3) For the purposes of subsection (1), a borrower is treated as being overseas-based—

(a) from the later of—

(i) the day on which he or she became a borrower; and

(ii) the first day of the 184-day period; and

(b) for each subsequent day.

(4) A borrower ceases to be overseas-based if that borrower becomes New Zealand-based.

Compare: 1992 No 141 s 38AC(1)–(3)

24 Treatment of partial days

For the purposes of sections 22 and 23, if a borrower is physically in New Zealand for part of a day, that borrower is treated as—

(a) being physically in New Zealand for the whole of that day; and

(b) not being physically absent from New Zealand for any part of that day.

Compare: 1992 No 141 s 38AD

Certain borrowers may be treated as being physically in New Zealand

25 Commissioner may treat certain borrowers as being physically in New Zealand

(1) On the application of a borrower, the Commissioner may, for the purposes of sections 22 to 24 and if the Commissioner considers that it is fair and reasonable to do so, treat a borrower as being physically in New Zealand if the principal reason that the borrower is not, was not, or will not be physically in New Zealand is because—

(a) the borrower is in the service in any capacity of the Government of New Zealand; or

(b) the borrower is working as a volunteer or for token payment for a charity; or

(c) of an unexpected delay; or

(d) of an unplanned personal absence; or

(e) the borrower is required to be overseas because of the borrower's employment or occupation; or

(f) the borrower is accompanying his or her spouse, civil union partner, or de facto partner overseas; or

(g) the borrower is undertaking study that meets the requirements of clause 7 of Schedule 1; or

(h) the borrower is undertaking study that meets the requirements of clause 8 of Schedule 1; or

(i) the borrower is undertaking study that meets the requirements of clause 9 of Schedule 1; or

(j) the borrower is in 1 or more of Niue, the Cook Islands, Tokelau, or the Ross Dependency.

(2) Subsection (1)(b) to (j) are subject to the conditions set out in, as applicable, clauses 2 to 11 of Schedule 1.

Compare: 1992 No 141 ss 38AE(1), (3A)–(7A), (9), 38AJ(1), 38AJA(1)–(3), (7)

Section 25(2): amended (with effect on 1 April 2012), on 12 April 2012, by section 8 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

26 Method of making application and provision of evidence and information

A borrower who applies to the Commissioner to be treated as being physically in New Zealand under section 25(1) must—

(a) make that application by notifying the Commissioner; and

(b) provide the evidence or information that is required by clauses 2 to 10 of Schedule 1, as applicable, by notifying the Commissioner in a manner acceptable to the Commissioner; and

(c) provide any other evidence or information that the Commissioner may reasonably require in order to establish whether one of the grounds for the grant of that application applies by notifying the Commissioner in a manner acceptable to the Commissioner.

Compare: 1992 No 141 ss 38AE(8), 38AJ(2)(c), 38AJA(4)(b)

27 Commissioner must notify borrower and specify period or conditions when granting application

If the Commissioner treats a borrower as being physically in New Zealand under section 25(1), the Commissioner must—

(a) notify the borrower in writing; and

(b) specify either—

(i) the start and end dates for the period for which the borrower is treated as being physically in New Zealand; or

(ii) any conditions that must apply or be met in order for the borrower to be treated as being physically in New Zealand.

Compare: 1992 No 141 ss 38AE(2), 38AIA(2), 38AJ(3), 38AJA(5)

Borrowers must notify Commissioner of absence from and return to New Zealand

28 Borrower to notify Commissioner of absence from New Zealand of 184 or more days

(1) A borrower who intends to be, or will be, physically absent from New Zealand for a period of 184 or more consecutive days must, before leaving New Zealand, notify the Commissioner of the following matters:

(a) 1 of the following ways for the Commissioner to notify the borrower:

(i) a permanent overseas postal address; or

(ii) a New Zealand postal address; or

(iii) the name and New Zealand postal address of a person empowered to act for the borrower; and

(b) an electronic means of communication prescribed by the Commissioner by which the Commissioner may notify the borrower; and

(c) any information that the Commissioner reasonably requires in order to determine—

(i) the borrower's repayment obligation (if any); and

(ii) whether the borrower is liable to pay loan interest.

(2) A borrower who is physically absent from New Zealand must notify the Commissioner of the matters required by subsection (1), as well as the date on which the borrower left New Zealand, as soon as practicable after the earlier of the following:

(a) the borrower becomes overseas-based:

(b) the borrower becomes aware that he or she will be overseas-based.

Compare: 1992 No 141 s 37

29 Borrower to notify Commissioner of return to New Zealand of more than 183 days

(1) An overseas-based borrower who is physically in New Zealand must comply with subsection (2) as soon as practicable after the earlier of the following:

(a) the borrower becomes New Zealand-based:

(b) the borrower becomes aware that he or she will be New Zealand-based.

(2) The borrower must notify the Commissioner of—

(a) the date on which the borrower returned to New Zealand; and

(b) any other information that the Commissioner may reasonably require in order to establish whether the borrower is New Zealand-based.

Compare: 1992 No 141 s 38

Part 2
Repayment obligations of borrowers

30 Borrower's liability to repay consolidated loan balance

(1) Each borrower must repay his or her consolidated loan balance in accordance with this Act and the loan contract.

(2) Section 203 applies if there is an inconsistency between this Act and the loan contract.

Compare: 1992 No 141 ss 13(2), 63

31 Repayment obligations that apply to New Zealand-based borrowers and overseas-based borrowers

(1) If a borrower—

(a) is New Zealand-based, the repayment obligations in subparts 1 to 3 apply to that borrower:

(b) is overseas-based, the repayment obligations in subpart 4 apply to that borrower.

(2) Subpart 5 applies to a borrower who—

(a) is New Zealand-based but is a non-resident; or

(b) is both New Zealand-based and overseas-based during a tax year; or

(c) is overseas-based but derives salary or wages from New Zealand.

32 Interrelationship between subparts 1 to 3

(1) This section applies to New Zealand-based borrowers.

(2) If a borrower derives only salary or wages, subpart 1 applies to that borrower.

(3) If a borrower derives only pre-taxed income, subpart 2 applies to that borrower.

(4) If a borrower derives only other income, subpart 3 applies to that borrower.

(5) If a borrower derives salary or wages, and pre-taxed income, subparts 1 and 2 both apply to the borrower.

(6) If a borrower derives salary or wages, and other income, subparts 1 and 3 both apply to the borrower.

(7) If a borrower derives pre-taxed income and other income, subpart 3 applies to the borrower (and subpart 2 does not apply).

(8) If a borrower derives salary or wages, pre-taxed income, and other income, subparts 1 and 3 both apply to the borrower (and subpart 2 does not apply).

(9) This section is intended as a guide only.

Subpart 1—New Zealand-based borrowers' repayment obligations for salary or wages

33 Application of this subpart

This subpart applies to New Zealand-based borrowers who derive salary or wages.

Repayment codes

34 Repayment codes for New Zealand-based borrowers who derive salary or wages

(1) For the purpose of the application of the PAYE rules under section 70, the repayment code of all New Zealand-based borrowers who derive salary or wages is either—

(a) "SL"; or

(b) "STC".

(2) The repayment code "STC" applies to a borrower if—

(a) the employer is issued with a special tax code certificate under section 24F of the Tax Administration Act 1994; or

(b) the Commissioner requires or permits its use in any other case.

(3) If another Act requires an employer to withhold an amount of tax for a PAYE income payment to a borrower and pay the amount to the Commissioner,—

(a) the repayment code "SL" may be combined with another code under that Act; and

(b) the repayment code "STC" may be combined into another code under that Act.

Compare: 1992 No 141 s 17B; 1994 No 166 s 24B(4)

Section 34(2): replaced (with effect on 1 April 2012), on 12 April 2012, by section 9 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 34(3): replaced (with effect on 1 April 2012), on 12 April 2012, by section 9 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

35 Borrowers with "SL" repayment code must notify employers

(1) A borrower whose repayment code is "SL" must notify his or her employer in a manner acceptable to the Commissioner.

(2) The borrower must notify his or her employer as soon as practicable—

(a) after the later of—

(i) the time at which the borrower becomes an employee of the employer; and

(ii) the time at which the borrower becomes a borrower; and

(b) if an "STC" repayment code ceases to apply to the borrower.

(c) *[Repealed]*

Compare: 1992 No 141 s 18

Section 35(2)(b): replaced (with effect on 1 April 2012), on 12 April 2012, by section 10 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 35(2)(c): repealed (with effect on 1 April 2012), on 12 April 2012, by section 10 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Salary or wage deductions

36 Employer or PAYE intermediary must make standard deductions from salary or wages

(1) This section applies if—

(a) a borrower has notified his or her employer under section 35; or

(b) the Commissioner has notified a borrower's employer or PAYE intermediary that the repayment code that should be applied to the borrower's salary or wages is "SL"; or

(c) a borrower's employer has been notified in writing that an "STC" repayment code applies to the borrower.

(2) Each time the employer or PAYE intermediary pays an amount to the borrower that is salary or wages for a pay period, the employer or PAYE intermediary must make a deduction from that amount in accordance with section 37(1) or (2).

Compare: 1992 No 141 s 19(1)

Section 36(1)(c): amended (with effect on 1 April 2012), on 12 April 2012, by section 11 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

37 Deduction rates that apply to standard deductions from salary or wages

(1) If the employer of a borrower has not been notified that a special deduction rate applies to the borrower, deductions must be made at the rate of 10 cents in each complete dollar from—

(a) so much of the primary employment earnings paid to the borrower as exceeds the pay period repayment threshold; and

(b) any secondary employment earnings paid to the borrower.

(2) If the employer has been notified that a special deduction rate applies to the borrower, deductions must be made at the special deduction rate specified in the applicable special deduction rate certificate from—

(a) the primary employment earnings paid to the borrower; and

(b) any secondary employment earnings paid to the borrower.

(3) If the repayment percentage is changed by regulations, the deduction rate in subsection (1) is changed accordingly.

(4) In this section, **pay period repayment threshold** means,—

(a) if the salary or wages are paid weekly, an amount equal to one fifty-second of the annual repayment threshold; and

(b) if the salary or wages are paid fortnightly, twice the amount specified in paragraph (a); and

(c) if the salary or wages are paid three-weekly, 3 times the amount specified in paragraph (a); and

(d) if the salary or wages are paid four-weekly, 4 times the amount specified in paragraph (a); and

(e) if the salary or wages are paid monthly, an amount equal to one-twelfth of the annual repayment threshold; and

(f) if the salary or wages are paid other than as set out in paragraphs (a) to (e), an amount determined by the Commissioner to reflect the pay period.

Compare: 1992 No 141 ss 19(2), 20

Section 37(1): amended (with effect on 1 April 2012), on 12 April 2012, by section 12(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 37(2): amended (with effect on 1 April 2012), on 12 April 2012, by section 12(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

38 Employer or PAYE intermediary must make Commissioner deductions from salary or wages

(1) This section applies if a borrower's employer or PAYE intermediary has received an additional deduction rate notice that has been issued in relation to the borrower under section 49(2).

(2) Each time the employer or PAYE intermediary pays an amount to the borrower that is salary or wages for a pay period, the employer or PAYE intermediary must make a deduction from that amount at the additional deduction rate specified in the notice.

(3) Deductions made in accordance with this section must—

(a) be made in addition to standard deductions and, if applicable, borrower deductions; and

(b) have the repayment code "SLCIR" applied to them; and

(c) continue to be made until the earlier of the date on which—

(i) the Commissioner notifies the employer or PAYE intermediary otherwise; or

(ii) the deductions equal the amount specified in the additional deduction rate notice in accordance with section 49(2)(b).

(4) Nothing in this section limits section 36, 37, or 39.

Compare: 1992 No 141 ss 19(1), (2), 20A(4)

Section 38(3)(b): amended (with effect on 1 April 2012), on 12 April 2012, by section 13 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

39 Employer or PAYE intermediary must make borrower deductions from salary or wages

(1) This section applies if a borrower requests his or her employer or PAYE intermediary to make deductions at an additional deduction rate or of a specified amount.

(2) Each time the employer or PAYE intermediary pays an amount to the borrower that is salary or wages for a pay period, the employer or PAYE intermediary must make a deduction from that amount at the additional deduction rate, or of the amount, requested by the borrower.

(3) Deductions made in accordance with this section must—
- (a) be made in addition to standard deductions and, if applicable, Commissioner deductions; and
- (b) have the repayment code "SLBOR" applied to them; and
- (c) continue to be made until the borrower notifies his or her employer or PAYE intermediary otherwise.

(4) Nothing in this section limits section 36, 37, or 38.

Compare: 1992 No 141 s 19(1), (2)

Section 39(3)(b): amended (with effect on 1 April 2012), on 12 April 2012, by section 14 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

40 Deductions from income-tested benefits

(1) This section applies if—
- (a) a borrower receives an income-tested benefit for a pay period; and
- (b) the equivalent gross amount of that income-tested benefit exceeds the pay period repayment threshold (calculated in accordance with section 37(4)) for that pay period.

(2) The chief executive—
- (a) must not make a salary or wage deduction from the income-tested benefit; and

(b) must make a deduction from the income-tested benefit of an amount determined by the Commissioner in consultation with the chief executive.

(2A) If the amount of the deduction determined under subsection (2)(b) is zero, then sections 34 and 35 do not apply.

(3) This section overrides sections 36(2), 38, and 39.

(4) In this section,—

equivalent gross amount means the sum of—

(a) the amount of an income-tested benefit; and

(b) any amount that was paid to the Commissioner in accordance with section 83A of the Social Security Act 1964 for income tax payable on that income-tested benefit

income-tested benefit means an income-tested benefit as defined in section YA 1 of the Income Tax Act 2007.

Compare: 1992 No 141 s 23

Section 40(2A): inserted (with effect on 1 April 2012), on 12 April 2012, by section 15 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Unused repayment threshold may be allocated to secondary employment earnings

41 Definitions relating to repayment thresholds

In sections 42 to 48,—

estimated salary or wages, in relation to a quarter, means the amount determined in accordance with section 43

quarter means a period of 3 consecutive calendar months that ends with the last day of March, June, September, or December

unused repayment threshold for a pay period means the amount determined in accordance with section 44.

42 Application for unused repayment threshold to be allocated to secondary employment earnings

(1) Subsection (2) applies to a New Zealand-based borrower who, for a quarter,—

(a) has 1 or more sources of secondary employment earnings; and

(b) has an unused repayment threshold for a pay period that is greater than zero.

(c) *[Repealed]*

(2) The borrower may apply to the Commissioner for the borrower's unused repayment threshold for a pay period to be allocated to the borrower's secondary employment earnings.

(3) The borrower must apply by notifying the Commissioner, in a manner acceptable to the Commissioner, of—

(a) the borrower's estimated salary or wages; and

(b) any other information requested by the Commissioner.

Section 42(1)(b): amended (with effect on 1 April 2012), on 12 April 2012, by section 16 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 42(1)(c): repealed (with effect on 1 April 2012), on 12 April 2012, by section 16 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

43 Determining estimated salary or wages

(1) A borrower must determine his or her estimated salary or wages by making a fair and reasonable estimate of the total income the borrower will derive for the relevant quarter from each of the following:

(a) the borrower's primary employment earnings:

(b) the borrower's secondary employment earnings.

(2) The borrower must—

(a) take reasonable care in making the estimate; and

(b) revise the estimate if, at some time in the quarter, the amount estimated is no longer fair and reasonable.

Compare: 2007 No 97 s RC 7(2), (4)

44 Calculating borrower's unused repayment threshold for pay period

A borrower's **unused repayment threshold for a pay period** is calculated in accordance with the formula—

$$a = \frac{b - c}{d}$$

where—

a is the unused repayment threshold for a pay period

b is the annual repayment threshold for the relevant tax year divided by 4

c is the borrower's estimated primary employment earnings in the relevant quarter, as notified to the Commissioner in accordance with section 42(3) or 47(2)(a)

d is the number of the borrower's pay periods in the quarter for his or her primary employment earnings.

45 Special deduction rate certificate for unused repayment threshold

Upon receiving an application in accordance with section 42, the Commissioner may issue a special deduction rate certificate that, in relation to the borrower's secondary employment earnings,—

(a) specifies a special deduction rate and the repayment code to be used that reflects the borrower's unused repayment threshold for a pay period; and

(b) specifies the period for which the special deduction rate is to apply to the borrower; and

(c) requires the borrower's employer or PAYE intermediary to make deductions from the borrower's salary or wages at the special deduction rate.

Compare: 1992 No 141 s 20A(2)

Section 45(a): amended (with effect on 1 April 2012), on 12 April 2012, by section 17 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

46 Issue and application of special deduction rate certificate

(1) If the Commissioner issues a special deduction rate certificate under section 45, the Commissioner must give a copy of the certificate to the borrower.

(2) The special deduction rate certificate—

(a) revokes all other special deduction rate certificates previously issued in relation to the borrower under section 45; and

(b) does not limit the application of sections 147 to 153 (concerning hardship relief).

Compare: 1992 No 141 s 20A(5)–(7)

Section 46(2)(a): amended (with effect on 1 April 2012), on 12 April 2012, by section 18 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

47 Ongoing obligations of borrower to review and notify

(1) The borrower—

(a) must review an estimate he or she made under section 43 before the end of each quarter; and

(b) may revise an estimate he or she made under section 43 at any time.

(2) The borrower must notify the Commissioner in a manner acceptable to the Commissioner, and provide details, if—

(a) the borrower revises an estimate he or she made under section 43; or

(b) any of the circumstances set out in section 42(1) change; or

(c) the borrower ends any employment or starts any new employment.

Compare: 2007 No 97 s RC 7(3)

48 Time when special deduction rate ceases to apply

The special deduction rate applies until the earlier of—

(a) the end of the period specified in the special deduction rate certificate; or

(b) the date on which the Commissioner notifies the employer in writing otherwise; or

(c) the date on which the borrower notifies the employer otherwise.

Compare: 1992 No 141 s 20A(4)

Commissioner deductions may be used to recover amounts that remain unpaid

49 Commissioner must issue additional deduction rate notice to obtain Commissioner deductions

(1) The Commissioner may obtain Commissioner deductions from a borrower's salary or wages if—

(a) there is a significant under-deduction in relation to the borrower in the current tax year or in any prior tax year that the Commissioner reasonably believes has occurred because of—

(i) an error or omission by the borrower's employer or PAYE intermediary; or

(ii) an error or omission by the borrower; or

(b) the borrower has an unpaid amount.

(2) To obtain Commissioner deductions from a borrower's salary or wages, the Commissioner must issue an additional deduction rate notice that—

(a) specifies the additional deduction rate that is to apply to the borrower (in addition to standard deductions and, if applicable, borrower deductions); and

(b) specifies the total amount payable by the borrower at the additional deduction rate; and

(c) requires some or all of the borrower's employers or PAYE intermediaries to make Commissioner deductions at the additional deduction rate until those deductions equal the amount specified in accordance with paragraph (b).

(3) The additional deduction rate specified under subsection (2)(a) must be 5% or less.

Compare: 1992 No 141 s 20A(1), (2)

Section 49(1)(a)(i): replaced (with effect on 1 April 2012), on 12 April 2012, by section 19 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

50 Procedures for issue of additional deduction rate notice

(1) If the Commissioner issues an additional deduction rate notice under section 49(2), the Commissioner must—

(a) give that notice to the employers or PAYE intermediaries of the borrower to whom the notice applies; and

(b) notify the borrower in writing—

(i) that an additional deduction rate notice has been issued in relation to the borrower under section 49(2); and

(ii) that Commissioner deductions will be made from the borrower's salary or wages; and

(iii) of all of the information in that notice.

(2) An additional deduction rate notice issued to an employer or a PAYE intermediary in relation to a borrower revokes an additional deduction rate notice previously issued to that employer or PAYE intermediary in relation to the borrower.

(3) Nothing in section 49 or this section limits the application of sections 147 to 153 (concerning hardship relief).

Compare: 1992 No 141 s 20A(3), (5)–(7)

Section 50(2): replaced (with effect on 1 April 2012), on 12 April 2012, by section 20 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Further means of recovering amounts that remain unpaid

51 Assessment of standard deductions that ought to have been made

(1) This section applies if, in relation to a borrower,—

(a) there is a significant under-deduction in the current tax year or in any prior tax year that the Commissioner reasonably believes has occurred because—

(i) of a deliberate action or omission by the borrower or by the borrower's employer or PAYE intermediary; or

(ii) the borrower has prevented a standard deduction from being made; or

(b) the Commissioner has been unable to obtain Commissioner deductions for the purposes set out in section 49(1)(a); or

(c) the Commissioner is satisfied that he or she will be unable to obtain Commissioner deductions within a reasonable period of time from the borrower's future salary or wages for the purposes set out in section 49(1)(a).

(2) *[Repealed]*

(3) The Commissioner may make an assessment in relation to the borrower to determine the standard deductions that ought to have been made for any period.

(4) In making an assessment under this section, the Commissioner may have regard to any information that the Commissioner considers to be relevant.

(5) The assessment must be made in accordance with this subpart and the loan contract.

(6) Section 203 applies if there is an inconsistency between this subpart and the loan contract.

Compare: 1992 No 141 ss 15, 20A(1)

Section 51(1)(a)(i): amended (with effect on 1 April 2012), on 12 April 2012, by section 21(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 51(2): repealed (with effect on 1 April 2012), on 12 April 2012, by section 21(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

52 Recovery of assessed amounts

(1) The Commissioner must, as soon as practicable after making an assessment under section 51, notify the borrower in writing—

(a) that an assessment of the borrower has been carried out; and

(b) of the amount, if any, that must be paid by the borrower; and

(c) of the date by which that payment must be made, which must be at least 30 days after the date of the assessment; and

(d) that if that amount is not paid by the specified date, then it may be subject to late payment interest (*see* section 139(1)).

(2) The amount specified in accordance with subsection (1)(b) must be no greater than the amount the Commissioner considers the borrower should or would have paid under this subpart for the period in question.

Compare: 1992 No 141 s 15(4); 1994 No 166 s 44

Exemption from standard deductions for borrowers who are full-time students

53 Definitions relating to exemption for full-time students

In sections 54 to 60,—

exemption period means a period of time—

(a) between the date on which a borrower first has a loan advance made to him or her and the date on which the borrower starts a programme of study; and

(b) during which a borrower is undertaking a programme of study; and

(c) between semesters of a programme of study, provided that—

(i) a borrower has completed 1 or more semesters of a programme of study; and

(ii) the borrower intends to continue a programme of study in the next semester; and

(iii) the period of time between semesters is no more than—

(A) 15 weeks for a holiday that includes Christmas day; or

(B) 3 weeks for any other holiday

full-time student means a borrower who—

(a) is undertaking a programme of study; or

(b) will start a programme of study in the tax year referred to in section 54(1)(a)

programme of study means a programme of study that—

(a) is 32 weeks or longer in duration in any 52-week period and at least 0.8 of equivalent full-time student units, as determined in accordance with the formula used for the purposes of section 159 of the Education Act 1989; or

(b) is 12 weeks or longer in duration in any 52-week period and at least 0.3 of equivalent full-time student units, as determined in accordance with the formula used for the purposes of section 159 of the Education Act 1989 or the equivalent on a pro-rata basis (as set out in the loan entry threshold table that is used for student loan entitlement purposes).

54 Borrowers who are eligible for exemption from standard deductions

(1) This section applies to a New Zealand-based borrower who—

(a) is a full-time student in a tax year (**year A**); and

(b) reasonably expects that the annual repayment threshold for year A will not be exceeded by his or her—

(i) gross income from salary or wages; and

(ii) in the case of a borrower to whom subpart 2 applies, net pre-taxed income; and

(iii) in the case of a borrower to whom subpart 3 applies, adjusted net income.

(c) *[Repealed]*

(2) The borrower may obtain an exemption from future standard deductions for an exemption period by making a declaration in accordance with section 55.

Section 54(1)(b): replaced (with effect on 1 April 2012), on 12 April 2012, by section 22 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 54(1)(c): repealed (with effect on 1 April 2012), on 12 April 2012, by section 22 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

55 Declaration by eligible borrowers for exemption from standard deductions

A declaration must—

(a) specify the tax year to which it relates; and

(b) specify the exemption period to which it relates; and

(c) contain all of the information prescribed by the Commissioner; and

(d) be made by notifying the Commissioner in a manner acceptable to the Commissioner.

56 Notice from Commissioner

Upon receiving a declaration that complies with section 55 from a borrower, the Commissioner must—

(a) grant the borrower an exemption from standard deductions; and

(b) issue a notice to the borrower that—

(i) states that an exemption from standard deductions has been granted to the borrower; and

(ii) specifies the exemption period to which the exemption applies; and

(iii) summarises the effect of section 57.

57 Consequences of exemption from standard deductions

(1) If a borrower's employer is notified in writing that an exemption from standard deductions has been granted to the borrower, then—

(a) the repayment codes "SL" or "STC", as applicable, cease to apply to the borrower; and

(b) nothing in sections 34 to 37 or 40 applies in relation to the borrower.

(2) Subsection (1)(a) and (b) apply from the later of—

(a) the start date of the exemption period specified in the notice issued in accordance with section 56(b); and

(b) the date on which the borrower's employer is notified in writing that the exemption has been granted to the borrower.

(3) The grant of an exemption from standard deductions does not limit section 38 or 39.

58 Withdrawal of declaration

A borrower may withdraw a declaration under section 55 by—

(a) notifying the Commissioner; and

(b) notifying the borrower's employer.

59 Notice of change of circumstances

(1) A borrower must notify the Commissioner and the borrower's employer, and provide details, as soon as practicable, if—

(a) any of the matters in section 54(1) cease to apply to that borrower; or

(b) the borrower becomes aware that any of those matters will cease to apply to him or her.

(2) If the Commissioner becomes aware that any of the matters in section 54(1) have ceased, or will cease, to apply to a borrower, the Commissioner may—

(a) notify the borrower in writing; and

(b) notify the borrower's employer in writing.

(3) A notification under subsection (1) or (2) must specify the date on which the matters ceased, or will cease, to apply to the borrower.

60 When exemption from standard deductions ceases to apply

(1) Section 57 ceases to apply in relation to a borrower from the earliest of the following:

(a) the end of the exemption period specified in the notice issued in accordance with section 56(b):

(b) the date on which the borrower withdraws his or her declaration in accordance with section 58:

(c) the date of a change of circumstances as notified to the Commissioner by the borrower under section 59(1) and (3):

(d) the date of a change of circumstances as notified to the borrower by the Commissioner under section 59(2) and (3).

(2) From the date on which section 57 ceases to apply in relation to a borrower,—

(a) the repayment code "SL" or "STC", as applicable, applies to the borrower; and

(b) sections 34 to 37 and 40 apply in relation to the borrower.

Information and determinations

61 Information to show salary or wage deductions made

(1) The Commissioner may—

(a) require an employer or PAYE intermediary who is required to make a salary or wage deduction to provide the Commissioner with any information the Commissioner may reasonably require in order to establish the amount of that deduction; and

(b) specify the date on or before which that information must be provided.

(2) The Commissioner must notify the employer or PAYE intermediary in writing of a requirement under subsection (1).

(3) An employer or PAYE intermediary must provide the Commissioner with any information required under subsection (1) by notifying the Commissioner, in a manner acceptable to the Commissioner, on or before the date specified by the Commissioner.

Compare: 1992 No 141 s 24

62 Commissioner must determine question about amount of salary or wage deductions

(1) An employer or PAYE intermediary may request the Commissioner to determine any question as to the amount, if any, of salary or wage deductions that ought to be made.

(2) The Commissioner must, as soon as practicable after receiving a request under subsection (1),—

(a) determine the amount, if any, of salary or wage deductions that ought to be made; and

(b) notify the employer or PAYE intermediary in writing of the Commissioner's determination.

(3) A request under subsection (1) must be made by notifying the Commissioner (*see* section 211).

Compare: 1992 No 141 s 22

Significant under-deductions and over-deductions

63 Commissioner determines what is significant under-deduction or significant over-deduction

(1) The Commissioner must determine the thresholds (which may differ) for what is to be treated as a significant under-deduction or a significant over-deduction.

(2) The Commissioner must exercise his or her discretion under subsection (1)—
- (a) in order to maintain the integrity of the student loan scheme; and
- (b) having regard to the resources available to the Commissioner.

(3) A determination under subsection (1) may—
- (a) take into account the cumulative effect of 2 or more under-deductions or over-deductions from a borrower's salary or wages; and
- (b) be set by reference to 1 or more time periods.

(4) The Commissioner must, on or before 31 March each year, inform borrowers of the threshold determined by the Commissioner for significant over-deductions for the next tax year.

64 Standard deductions are full and final unless significant error

(1) Subsection (2) applies if—
- (a) there is an incorrect deduction; and
- (b) the incorrect deduction is not a significant under-deduction or a significant over-deduction.

(2) If this subsection applies,—
- (a) the Commissioner must not take corrective action in relation to the incorrect deduction; and
- (b) the incorrect deduction must be treated as if it was the amount that was required to be deducted from a borrower's salary or wages in accordance with this subpart; and
- (c) this Act must be interpreted and applied with all necessary modifications in order to give effect to paragraph (b).

(3) Subsection (2) applies despite anything to the contrary.

(4) In this section, **incorrect deduction** means a standard deduction that—

(a) is required to be made but is not; or

(b) is less than or more than the amount that is required to be deducted in accordance with section 37.

65 Significant over-deduction identified by borrower

(1) If a borrower reasonably believes that a significant over-deduction was made in relation to him or her, the borrower—

(a) may request the Commissioner to determine whether a significant over-deduction was made; and

(b) must provide any evidence or information that the Commissioner may reasonably require in order to establish whether a significant over-deduction was made.

(2) The borrower must make a request under subsection (1)(a) within 6 months after the date on which the significant over-deduction is believed to have occurred.

(3) A request under subsection (1)(a) must be made by notifying the Commissioner (*see* section 211).

Section 65(2): amended (with effect on 1 April 2012), on 12 April 2012, by section 23 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

66 Commissioner must determine whether significant over-deduction made

If the Commissioner receives a request in accordance with section 65, the Commissioner must, as soon as practicable,—

(a) determine whether a significant over-deduction was made; and

(b) notify the borrower in writing if the Commissioner determines that a significant over-deduction was not made.

67 Procedure if significant over-deduction made

(1) This section applies if the Commissioner—

(a) identifies that a significant over-deduction has been made in relation to a borrower; or

(b) determines (in accordance with section 66) that a significant over-deduction has been made in relation to a borrower.

(2) The Commissioner must, as soon as practicable, notify the borrower in writing—

(a) that a significant over-deduction has been made in relation to the borrower; and

(b) of the amount of the over-deduction; and

(c) that the over-deduction has been offset against the borrower's consolidated loan balance; and

(d) that the borrower may, subject to subsections (2A) and (3), choose to receive a refund of the over-deduction (*see* sections 199 and 200); and

(e) of the time frame within which the borrower must notify the Commissioner if the borrower chooses to receive a refund of the over-deduction.

(2A) In any case where there is also, in relation to the borrower and any tax year, a significant under-deduction or an unpaid amount that the Commissioner has at any time identified, the significant under-deduction or unpaid amount may be offset against the significant over-deduction before any refund is made.

(3) To receive a refund of the over-deduction, the borrower must notify the Commissioner in a manner acceptable to the Commissioner within 6 months after the date on which the borrower was notified in accordance with subsection (2).

(4) A choice made by the borrower to receive a refund of the over-deduction is irrevocable.

Section 67(2)(d): amended (with effect on 1 April 2012), on 12 April 2012, by section 24(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 67(2A): inserted (with effect on 1 April 2012), on 12 April 2012, by section 24(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

68 Applicable procedures if significant under-deduction

The procedures in section 49 or 51 may be applied to a borrower if there is a significant under-deduction in relation to him or her.

Matters of general application to salary or wage deductions

69 Prohibition on applications or declarations to maintain integrity of student loan scheme

The Commissioner may prohibit a borrower from making an application under section 42 (application for unused repayment threshold to be allocated to secondary employment earnings) or a declaration under section 55 (declaration by eligible borrowers for exemption from standard deductions) if the Commissioner is satisfied that that borrower is using, or has used, either of those procedures in a manner that damages the integrity of the student loan scheme.

70 PAYE rules apply to salary or wage deductions

Subject to Schedule 2,—

(a) the PAYE rules apply to salary or wage deductions; and

(b) every employer, PAYE intermediary, and borrower must comply with the PAYE rules to the extent to which those rules apply under this section.

Compare: 1992 No 141 s 25

71 Salary or wage deductions in addition to income tax withheld

Salary or wage deductions are in addition to amounts of tax for PAYE income payments that are required to be withheld and paid to the Commissioner under the PAYE rules.

Compare: 1992 No 141 s 19(3)

Subpart 2—New Zealand-based borrowers' repayment obligations for pre-taxed income

72 Application of this subpart

This subpart applies to New Zealand-based borrowers—

(a) who derive $1,500 or more of net pre-taxed income (as defined in section 73) for a tax year; and

(b) whose income from net pre-taxed income and salary or wages (if any) for that tax year is $1,500 or more above the annual repayment threshold; and

(c) who do not derive other income for that tax year.

73 Meaning of net pre-taxed income

(1) In this Act, **net pre-taxed income**, in relation to a borrower for a tax year, means the amount calculated in accordance with the formula—

$$a = b - c$$

where—

a is the borrower's net pre-taxed income for the tax year

b is the borrower's pre-taxed income (as defined in section 4(1)) for the tax year

c is the borrower's allowable expenses for the tax year.

(2) However, the pre-taxed income and allowable expenses for any investment activity for a tax year are ignored when calculating a borrower's net pre-taxed income for that tax year if, treating the borrower as having only the pre-taxed income and allowable expenses of that activity, the borrower would have a net loss for that year.

(3) For the purposes of applying subsection (2), 2 or more investment activities may be treated as a single activity if the Commissioner considers that those investment activities are of a kind that are normally carried on in association with each other.

(4) For the purposes of applying subsection (2), as modified by subsection (3), allowable expenses that relate to an asset used in carrying on 2 or more investment activities must be appropriately apportioned between those activities on the basis of the use of that asset in those activities.

(5) In this section,—

allowable expenses means—

(a) expenditure or interest for which a person is allowed a deduction under section DB 3, DB 5, or DB 6 of the Income Tax Act 2007:

(b) a premium under a policy of income protection insurance for which a person is allowed a deduction under section DA 1 of the Income Tax Act 2007

investment activity has the same meaning as in section MB 3(5) of the Income Tax Act 2007.

Compare: 2007 No 97 s MB 3

Section 73: replaced (with effect on 1 April 2012), on 12 April 2012, by section 25 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Declaration of pre-taxed income and assessment of pre-taxed repayment obligation

74 Declaration of pre-taxed income

(1) If this subpart applies to a borrower, the borrower must make a declaration of pre-taxed income.

(2) The declaration of pre-taxed income must be made—

(a) by notifying the Commissioner in a manner acceptable to the Commissioner; and

(b) on or before—

(i) 7 July in the tax year following the tax year in which the pre-taxed income was derived; or

(ii) if the borrower has received an extension of time to make the declaration in accordance with section 75, the date on which the borrower is required to make the declaration; or

(iii) if the Commissioner has granted a borrower an extension of time to make the declaration (other than in accordance with section 75), the date on which the borrower is required to make the declaration as specified by the Commissioner.

75 Extension of time for making declaration of pre-taxed income

A borrower may apply to the Commissioner for an extension of time for the making of a declaration of pre-taxed income in accordance with section 37(3) to (5) of the Tax Administration Act 1994, and those subsections apply, as far as applicable and with all necessary modifications, as if—

(a) the reference to "the due date required under this section" were a reference to "the due date required under section 74(2)(b)(i) of the Student Loan Scheme Act 2011"; and

(b) every reference to a taxpayer were a reference to a borrower; and

(c) every reference to a return or a return of income were a reference to a declaration of pre-taxed income.

76 Commissioner to assess borrower's pre-taxed repayment obligation

(1) The Commissioner must assess the amount (if any) of a borrower's pre-taxed repayment obligation for a tax year as soon as practicable after the borrower makes his or her declaration of pre-taxed income.

(2) In making the assessment, the Commissioner may have regard to—
  (a) the borrower's declaration of pre-taxed income; and
  (b) any other information that the Commissioner considers to be relevant.

(3) The assessment must be made in accordance with this subpart and the loan contract.

(4) Section 203 applies if there is an inconsistency between this subpart and the loan contract.

(5) The Commissioner must, as soon as practicable after making the assessment, notify the borrower in writing of—
  (a) the borrower's pre-taxed repayment obligation for the tax year; and
  (b) the due dates (if any) on or before which the pre-taxed repayment obligation must be paid (*see* sections 81, 84, and 85); and
  (c) the amounts (if any) that must be paid on or before those due dates.

Compare: 1992 No 141 s 15

Calculation of pre-taxed repayment obligation

77 Calculation of borrower's pre-taxed repayment obligation if salary or wages are less than annual repayment threshold

(1) Subsection (2) applies if, in relation to a tax year,—
  (a) this subpart applies to a borrower; and
  (b) the gross income that the borrower derived from salary or wages is less than the annual repayment threshold.

(2) The borrower's pre-taxed repayment obligation for the tax year must be calculated in accordance with the formula—

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

where—

a is the borrower's pre-taxed repayment obligation for the tax year

b is the repayment percentage

c is the income that the borrower derives from net pre-taxed income and from salary or wages for the tax year

d is the annual repayment threshold.

(3) If the borrower's pre-taxed repayment obligation for the tax year is zero or less, the borrower has no pre-taxed repayment obligation for the tax year.

78 Calculation of borrower's pre-taxed repayment obligation if salary or wages are equal to or more than annual repayment threshold

(1) Subsection (2) applies if, in relation to a tax year,—

(a) this subpart applies to a borrower; and

(b) the gross income that the borrower derived from salary or wages is equal to or more than the annual repayment threshold.

(2) The borrower's pre-taxed repayment obligation for the tax year must be calculated in accordance with the formula—

$$a = b \times c$$

where—

a is the borrower's pre-taxed repayment obligation for the tax year

b is the repayment percentage

c is the income that the borrower derives from net pre-taxed income for the tax year.

Payment of pre-taxed repayment obligation

79 Payment of pre-taxed repayment obligation

(1) A borrower whose pre-taxed repayment obligation for a tax year is greater than zero must pay remaining repayments—

(a) calculated in accordance with section 80:

(b) on or before the due dates determined in accordance with section 81 or 85.

(2) Subsection (3) applies to a borrower if—

(a) the borrower's pre-taxed repayment obligation for a tax year is $1,000 or more; or

(b) the borrower has not made a declaration of pre-taxed income for a tax year and the amount of the borrower's pre-taxed income repayment obligation for the immediately preceding tax year was $1,000 or more.

(3) A borrower must also pay interim payments for the next tax year—

(a) calculated in accordance with section 82 or 83:

(b) on or before the due dates determined in accordance with section 84 or 85.

(4) However, a borrower is not liable to make interim repayments for a tax year if the borrower's pre-taxed repayment obligation for that year is less than $1,000.

Compare: 1992 No 141 s 26

80 Calculation of remaining repayments for tax year

(1) Subsections (2) and (3) apply—

(a) if a borrower has a pre-taxed repayment obligation for a tax year of less than $1,000; or

(b) if—

(i) a borrower has a pre-taxed repayment obligation for a tax year that is $1,000 or more, but less than $16,000; and

(ii) that borrower has not estimated his or her pre-taxed repayment obligation for that tax year.

(2) The amount of each of a borrower's remaining repayments (for the borrower's pre-taxed repayment obligation for the tax year) is the same and must be calculated in accordance with the formula—

$$a = \frac{(b - c) - (d - c)}{e}$$

where—

a is the amount of each of the borrower's remaining repayments

b is the borrower's pre-taxed repayment obligation for the tax year

c is the amount of the borrower's interim payments for the tax year calculated in accordance with section 82 or 83

d is the sum of any amounts that satisfy (so far as they extend) the borrower's pre-taxed repayment obligation for the tax year

e is,—

(a) for a borrower who has a pre-taxed repayment obligation for the tax year of less than $1,000, 1; or

(b) for all other borrowers, the number of due dates the borrower has for the next tax year determined in accordance with section 81(4).

(3) However,—

(a) if the sum of (b − c) is less than zero, then it must be treated as if it were zero; and

(b) if the sum of (d − c) is less than zero, then it must be treated as if it were zero; and

(c) if a is not divisible into equal amounts, then the final remaining repayment carries the difference.

(4) If subsections (2) and (3) do not apply, then the amount of each of a borrower's remaining repayments (for the borrower's pre-taxed repayment obligation for the tax year) may vary and must be calculated separately in accordance with the formula—

$$a = \frac{b}{c} - d$$

where—

a is the amount of the borrower's remaining repayment

b is the borrower's pre-taxed repayment obligation for the tax year

c is the number of due dates the borrower has for the tax year determined in accordance with section 81(5)

d is the amount that, as at the due date of the remaining repayment, has been used to satisfy (so far as it extends) the interim payment due on the same date.

Compare: 1992 No 141 s 29

81 Due dates for payment of remaining repayments

(1) Subsection (2) applies if a borrower—

(a) has a pre-taxed repayment obligation for a tax year that is less than $1,000; or

(b) does not have to make interim payments for a tax year.

(2) The borrower must pay 1 remaining repayment on or before the date in column B, D, or F of the table in Part A of Schedule 3 of the Income Tax Act 2007 that—

(a) corresponds to the month of the borrower's balance date; and

(b) immediately follows the date on which the borrower is required to file his or her declaration of pre-taxed income for the tax year.

(3) Subsection (4) applies if—

(a) a borrower has a pre-taxed repayment obligation for a tax year that is $1,000 or more, but less than $16,000; and

(b) that borrower has not estimated his or her pre-taxed repayment obligation for that tax year.

(4) The borrower—

(a) must make the same number of remaining repayments for a tax year (**tax year A**) as the number of interim payment dates the borrower has for tax year A; but

(b) must pay a remaining repayment on or before each of the interim payment dates that immediately follow the date on which the borrower is required to file his or her declaration of pre-taxed income for tax year A, even though this may require those payments to be made in tax year A and in the tax year following tax year A.

(5) If subsections (2) and (4) do not apply, a borrower must pay a remaining repayment for a tax year on or before—

(a) each of the interim payment dates for the same tax year; or

(b) if the borrower does not have to make interim payments for the tax year, each of the interim payment dates that would have applied for the tax year if the borrower had to make interim payments for the tax year.

(6) In this section, **interim payment dates** means the dates determined in accordance with section 84 or 85 on which a borrower must pay his or her interim payments.
Compare: 1992 No 141 s 30(1)

82 Calculation of interim payments for next tax year

(1) If a borrower has not estimated his or her pre-taxed repayment obligation for a tax year and the borrower's uplifted pre-taxed repayment obligation for the tax year is less than $16,000, then the amount of each of the borrower's interim payments for the tax year may vary and must be calculated separately in accordance with the formula—

$$a = b \times \frac{c}{d} - e$$

where—

a is the amount of the borrower's interim payment

b is the amount of the borrower's uplifted pre-taxed repayment obligation for the tax year

c is a number reflecting which of the interim payments for the tax year is being calculated (for example, 2 if the second interim payment for the tax year is being calculated)

d is the total number of interim payment due dates the borrower has for the tax year

e is the aggregate amount of all of the borrower's interim payments for the tax year that were due before the interim payment being calculated.

(2) If a borrower has estimated his or her pre-taxed repayment obligation for a tax year or the borrower's uplifted pre-taxed repayment obligation for the tax year is $16,000 or more, the amount of each of the borrower's interim payments for the tax year is calculated in accordance with the formula—

$$a = \frac{b}{c}$$

where—

a is the amount of the borrower's interim payment

b is, as applicable,—
(a) the amount of the borrower's estimated pre-taxed repayment obligation for the tax year; or
(b) the amount of the borrower's uplifted pre-taxed repayment obligation for the tax year

c is the total number of interim payment due dates the borrower has for the tax year.

(3) For the purposes of this section, the total number of interim payment due dates a borrower has is determined by reference to the number of interim payments the borrower must make as determined in accordance with section 84 or 85.

(4) If the total amount of the borrower's interim payments calculated in accordance with subsection (1) or (2) for a tax year is not divisible into equal amounts, then the final interim payment carries the difference.

(5) In this section, **uplifted pre-taxed repayment obligation**—
(a) means—
(i) the amount of the borrower's pre-taxed repayment obligation for the immediately preceding tax year multiplied by 105%; or
(ii) if the borrower did not make a declaration of pre-taxed income for the immediately preceding tax year, the amount of the borrower's pre-taxed repayment obligation for the year before the immediately preceding tax year multiplied by 110%; but
(b) the amount calculated in accordance with paragraph (a) must not exceed the sum of the borrower's loan balance on 1 April of the relevant tax year plus any loan advances made or charged to the borrower for that tax year after that date.

Compare: 1992 No 141 s 27

83 Commissioner may assess interim payments if declaration for preceding year not made

(1) The Commissioner may assess a borrower's interim payments for a tax year in the manner set out in section RC 6(3) of the Income Tax Act 2007 if the borrower did not make a declar-

ation of pre-taxed income for the immediately preceding tax year.

(2) Section 82 does not apply if the Commissioner makes an assessment in accordance with subsection (1).

84 Due dates for payment of interim payments

(1) If a borrower is in a transitional year, the borrower must pay an interim payment on or before each of the dates on which the borrower's provisional tax for that tax year is due in accordance with the provisional tax rules.

(2) If a borrower is not in a transitional year, the due dates for the payment of the borrower's interim payments are the dates in columns B, D, and F of the table in Part A of Schedule 3 of the Income Tax Act 2007 that correspond to the month of the borrower's balance date.

(3) In this section, **transitional year** has the same meaning as in section YA 1 of the Income Tax Act 2007.

85 Commissioner's powers in relation to due dates

(1) The Commissioner may determine the dates on or before which a borrower must pay his or her remaining repayments or interim payments for a tax year if—
   (a) the borrower requests the Commissioner to determine the borrower's due dates; or
   (b) the Commissioner considers it necessary or appropriate in the circumstances.

(2) The dates determined by the Commissioner under subsection (1) may differ from the dates specified in sections 81 and 84.

(3) If the Commissioner determines the dates on or before which a borrower must pay his or her remaining repayments or interim payments for a tax year,—
   (a) the Commissioner must, as soon as practicable, notify the borrower in writing—
      (i) of that fact; and
      (ii) of the dates determined by the Commissioner; and

(b) the amount of those remaining repayments or interim payments must be calculated by reference to those dates.

(4) This section overrides sections 81 and 84.

Compare: 1992 No 141 s 30(2)

86 Interim payments to be paid in same manner as provisional tax

Subject to Schedule 3,—

(a) interim payments for a borrower's pre-taxed repayment obligation for a tax year are payable in the same manner as provisional tax; and

(b) a borrower must comply with the requirements of the provisional tax rules.

Compare: 1992 No 141 s 28

87 Consequence of failure to meet repayment obligations

A borrower may be liable to pay late payment interest if the borrower does not meet his or her repayment obligations under this subpart (*see* section 139(1)).

Subpart 3—New Zealand-based borrowers' repayment obligations for other income

88 Application of this subpart

This subpart applies to New Zealand-based borrowers who derive other income.

88A Meaning of adjusted net income

(1) In this Act, **adjusted net income** means a borrower's income calculated in accordance with the formula—

$$a = b - c$$

where—

a is the borrower's adjusted net income

b is the borrower's annual gross income other than from salary or wages

c is the borrower's annual total deductions.

(2) However, the income and deductions for any investment activity, or for any business, for a tax year are ignored when calculating a borrower's adjusted net income for that tax year if, treating the borrower as having only the income and deductions of that investment activity or of that business, the borrower would have a net loss for that year.

(3) For the purposes of applying subsection (2), 2 or more business or investment activities may be treated as a single activity if the Commissioner considers that those business or investment activities are of a kind that are normally carried on in association with each other.

(4) For the purposes of applying subsection (2), as modified by subsection (3), deductions that relate to an asset used in carrying on 2 or more business or investment activities must be appropriately apportioned between those activities on the basis of the use of that asset in those activities.

(5) In this section,—

business has the same meaning as in section YA 1 of the Income Tax Act 2007

investment activity has the same meaning as in section MB 3(5) of the Income Tax Act 2007.

Compare: 2007 No 97 s MB 3(2)

Section 88A: inserted (with effect on 1 April 2012), on 12 April 2012, by section 26 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Assessment of other income repayment obligation

89 Commissioner to assess borrower's other income repayment obligation

(1) The Commissioner must assess the amount (if any) of a borrower's other income repayment obligation for a tax year as soon as practicable after the borrower provides—

(a) his or her return of income for that tax year; or

(b) details of his or her annual gross income and annual total deductions under section 114.

(2) In making the assessment, the Commissioner may have regard to—

(a) a return of income; and

(b) the details of a borrower's annual gross income and annual total deductions provided to the Commissioner under section 114; and

(c) any other information that the Commissioner considers to be relevant.

(3) The assessment must be made in accordance with this subpart and the loan contract.

(4) Section 203 applies if there is an inconsistency between this subpart and the loan contract.

(5) The Commissioner must, as soon as practicable after making the assessment, notify the borrower in writing of—

(a) the borrower's other income repayment obligation for the tax year; and

(b) the due dates (if any) on or before which the other income repayment obligation must be paid (*see* sections 94, 97, and 98); and

(c) the amounts (if any) that must be paid on or before those due dates.

Compare: 1992 No 141 s 15

Calculation of other income repayment obligations

90 Calculation of borrower's other income repayment obligation where salary or wages below threshold

(1) Subsection (2) applies if, in relation to a tax year,—

(a) this subpart applies to a borrower; and

(b) the gross income that the borrower derived from salary or wages is less than the annual repayment threshold.

(2) The borrower's other income repayment obligation for the tax year must be calculated in accordance with the formula—

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

where—

a is the borrower's other income repayment obligation for the tax year

b is the repayment percentage

c is the income that the borrower derives from adjusted net income and from salary or wages for the tax year

d is the annual repayment threshold.

(3) If the borrower's other income repayment obligation for the tax year is zero or less, the borrower has no other income repayment obligation for the tax year.

Section 90: replaced (with effect on 1 April 2012), on 12 April 2012, by section 27 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

91 Calculation of borrower's other income repayment obligation where salary or wages equal to or above threshold

(1) Subsection (2) applies if, in relation to a tax year,—

(a) this subpart applies to a borrower; and

(b) the gross income that the borrower derived from salary or wages is equal to or more than the annual repayment threshold.

(2) The borrower's other income repayment obligation for the tax year must be calculated in accordance with the formula—

$$a = b \times c$$

where—

a is the borrower's other income repayment obligation for the tax year

b is the repayment percentage

c is the income that the borrower derives from adjusted net income for the tax year.

Section 91: replaced (with effect on 1 April 2012), on 12 April 2012, by section 27 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Payment of other income repayment obligations

92 Payment of other income repayment obligations

(1) A borrower whose other income repayment obligation for a tax year is greater than zero must pay remaining repayments—

(a) calculated in accordance with section 93:

(b) on or before the due dates determined in accordance with section 94 or 98.

(2) Subsection (3) applies to a borrower if—

(a) the borrower's other income repayment obligation for a tax year is $1,000 or more; or

(b) the borrower has not provided a return of income or details of his or her annual gross income and annual total deductions under section 114 for a tax year (*see* section 89) and the amount of the borrower's other income repayment obligation for the immediately preceding tax year was $1,000 or more.

(3) A borrower must also pay interim payments for the next tax year—

(a) calculated in accordance with section 95 or 96:

(b) on or before the due dates determined in accordance with section 97 or 98.

(4) However, a borrower is not liable to make interim repayments for a tax year if the borrower's other income repayment obligation for that year is less than $1,000.

Compare: 1992 No 141 s 26

93 Calculation of remaining repayments for tax year

(1) Subsections (2) and (3) apply—

(a) if a borrower has an other income repayment obligation for a tax year of less than $1,000; or

(b) if—

(i) a borrower has an other income repayment obligation for a tax year that is $1,000 or more, but less than $16,000; and

(ii) that borrower has not estimated his or her other income repayment obligation for that tax year.

(2) The amount of each of a borrower's remaining repayments (for the borrower's other income repayment obligation for the tax year) is the same and must be calculated in accordance with the formula—

$$a = \frac{(b - c) - (d - c)}{e}$$

where—

a is the amount of each of the borrower's remaining repayments

b is the borrower's other income repayment obligation for the tax year

c is the total amount of the borrower's interim payments for the tax year calculated in accordance with section 95 or 96

d is the sum of any amounts that satisfy (so far as they extend) the borrower's other income repayment obligation for the tax year

e is,—

(a) for a borrower who has an other income repayment obligation for the tax year of less than $1,000, 1; or

(b) for all other borrowers, the number of due dates the borrower has for the next tax year determined in accordance with section 94(4).

(3) However,—

(a) if the sum of (b − c) is less than zero, then it must be treated as if it were zero; and

(b) if the sum of (d − c) is less than zero, then it must be treated as if it were zero; and

(c) if a is not divisible into equal amounts, then the final remaining repayment carries the difference.

(4) If subsections (2) and (3) do not apply, then the amount of each of a borrower's remaining repayments (for the borrower's other income repayment obligation for the tax year) may vary and must be calculated separately in accordance with the formula—

$$a = \frac{b}{c} - d$$

where—

a is the amount of the borrower's remaining repayment

b is the borrower's other income repayment obligation for the tax year

c is the number of due dates the borrower has for the tax year determined in accordance with section 94(5)

d is the amount that, as at the due date of the remaining repayment, has been used to satisfy (so far as it extends) the interim payment due on the same date.

Compare: 1992 No 141 s 29

94 Due dates for payment of remaining repayments

(1) Subsection (2) applies if a borrower—

(a) has an other income repayment obligation for a tax year that is less than $1,000; or

(b) does not have to make interim payments for a tax year.

(2) The borrower must pay 1 remaining repayment on or before the date in column B, D, or F of the table in Part A of Schedule 3 of the Income Tax Act 2007 that—

(a) corresponds to the month of the borrower's balance date; and

(b) immediately follows the date on which the borrower is required to file his or her return of income, or his or her notification of gross income and deductions under section 114 or 114A, for the tax year.

(3) Subsection (4) applies if—

(a) a borrower has an other income repayment obligation for a tax year that is $1,000 or more, but less than $16,000; and

(b) that borrower has not estimated his or her other income repayment obligation for that tax year.

(4) The borrower—

(a) must make the same number of remaining repayments for a tax year (**tax year A**) as the number of interim payment dates the borrower has for tax year A; but

(b) must pay a remaining repayment on or before each of the interim payment dates that immediately follow the date on which the borrower is required to file his or her return of income, or his or her notification of gross income and deductions under section 114 or 114A, for tax year A, even though this may require those payments to be made in tax year A and in the tax year following tax year A.

(5) If subsections (2) and (4) do not apply, a borrower must pay a remaining repayment for a tax year on or before—

(a) each of the interim payment dates for the same tax year; or

(b) if the borrower does not have to make interim payments for the tax year, each of the interim payment dates that

would have applied for the tax year if the borrower had to make interim payments for the tax year.

(6) In this section, **interim payment dates** means the dates determined in accordance with section 97 or 98 on which a borrower must pay his or her interim payments.

Compare: 1992 No 141 s 30(1)

Section 94(2)(b): amended (with effect on 1 April 2012), on 12 April 2012, by section 28(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 94(4)(b): amended (with effect on 1 April 2012), on 12 April 2012, by section 28(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

95 Calculation of interim payments for next tax year

(1) If a borrower has not estimated his or her other income repayment obligation for a tax year and the borrower's uplifted other income repayment obligation for the tax year is less than $16,000, then the amount of each of the borrower's interim payments for the tax year may vary and must be calculated separately in accordance with the formula—

$$a = b \times \frac{c}{d} - e$$

where—

a is the amount of the borrower's interim payment

b is the amount of the borrower's uplifted other income repayment obligation for the tax year

c is a number reflecting which of the interim payments for the tax year is being calculated (for example, 2 if the second interim payment for the tax year is being calculated)

d is the total number of interim payment due dates the borrower has for the tax year

e is the aggregate amount of all of the borrower's interim payments for the tax year that were due before the interim payment being calculated.

(2) If a borrower has estimated his or her other income repayment obligation for a tax year or the borrower's uplifted other income repayment obligation for the tax year is $16,000 or more, the amount of each of the borrower's interim payments for the tax year is calculated in accordance with the formula—

$$a = \frac{b}{c}$$

where—

a is the amount of the borrower's interim payment

b is, as applicable,—

(a) the amount of the borrower's estimated other income repayment obligation for the tax year; or

(b) the amount of the borrower's uplifted other income repayment obligation for the tax year

c is the total number of interim payment due dates the borrower has for the tax year.

(3) For the purposes of this section, the total number of interim payment due dates a borrower has is determined by reference to the number of interim payments the borrower must make as determined in accordance with section 97 or 98.

(4) If the total amount of the borrower's interim payments calculated in accordance with subsection (1) or (2) for a tax year is not divisible into equal amounts, then the final interim payment carries the difference.

(5) In this section, **uplifted other income repayment obligation**—

(a) means—

(i) the amount of the borrower's other income repayment obligation for the immediately preceding tax year multiplied by 105%; or

(ii) if the borrower did not provide a return of income or details of his or her annual gross income and annual total deductions under section 114 for the immediately preceding tax year (*see* section 89), the amount of the borrower's other income repayment obligation for the year before the immediately preceding tax year multiplied by 110%; but

(b) the amount calculated in accordance with paragraph (a) must not exceed the sum of the borrower's loan balance on 1 April of the relevant tax year plus any loan advances made or charged to the borrower for that tax year after that date.

Compare: 1992 No 141 s 27

96 Commissioner may assess interim payments if information for preceding year not provided

(1) The Commissioner may assess a borrower's interim payments for a tax year in the manner set out in section RC 6(3) of the Income Tax Act 2007 if the borrower did not provide, for the immediately preceding tax year (*see* section 89),—

(a) his or her return of income; or

(b) details of his or her annual gross income and annual total deductions under section 114.

(2) Section 95 does not apply if the Commissioner makes an assessment in accordance with subsection (1).

97 Due dates for payment of interim payments

(1) A borrower must pay an interim payment for a tax year on or before each of the dates on which the borrower must pay his or her provisional tax for that tax year in accordance with the provisional tax rules.

(2) However,—

(a) if a borrower uses a GST ratio to determine his or her provisional tax for a tax year and that year is not a transitional year for the borrower, the due dates for the payment of the borrower's interim payments are the dates in columns B, D, and F of the table in Part A of Schedule 3 of the Income Tax Act 2007 that correspond to the month of the borrower's balance date:

(b) if a borrower uses a GST ratio to determine his or her provisional tax for a tax year and that year is a transitional year for the borrower, the due dates for the payment of the borrower's interim payments are every second date in the table headed "GST ratio provisional taxpayers" in Part B of Schedule 3 of the Income Tax Act 2007 that correspond to the month of the borrower's balance date except that—

(i) if the borrower only has 1 payment date, the borrower only has 1 due date; and

(ii) if the borrower has an odd number of payment dates, then the last payment date does not apply to the borrower:

(c) if a borrower does not pay provisional tax for a tax year, the due dates for the payment of the borrower's interim payments are the dates in columns B, D, and F of the table in Part A of Schedule 3 of the Income Tax Act 2007 that correspond to the month of the borrower's balance date:

(d) if a borrower pays provisional tax on a 6-monthly basis for the 2012–13 tax year, the due dates for the payment of the borrower's interim payments are the dates in columns B, D, and F of the table in Part A of Schedule 3 of the Income Tax Act 2007 that correspond to the month of the borrower's balance date.

(3) In this section, **GST ratio** and **transitional year** have the same meaning as in section YA 1 of the Income Tax Act 2007.

(4) Subsection (2)(d) is repealed on the close of 31 March 2014.

98 Commissioner's powers in relation to due dates

(1) The Commissioner may determine the dates on or before which a borrower must pay his or her remaining repayments or interim payments for a tax year if—

(a) the borrower requests the Commissioner to determine the borrower's due dates; or

(b) the Commissioner considers it necessary or appropriate in the circumstances.

(2) The dates determined by the Commissioner under subsection (1) may differ from the dates specified in sections 94 and 97.

(3) If the Commissioner determines the dates on or before which a borrower must pay his or her remaining repayments or interim payments for a tax year,—

(a) the Commissioner must, as soon as practicable, notify the borrower in writing—

(i) of that fact; and

(ii) of the dates determined by the Commissioner; and

(b) the amount of those remaining repayments or interim payments must be calculated by reference to those dates.

(4) This section overrides sections 94 and 97.

Compare: 1992 No 141 s 30(2)

99 Interim payments to be paid in same manner as provisional tax

Subject to Schedule 4,—

(a) interim payments for a borrower's other income repayment obligation for a tax year are payable in the same manner as provisional tax; and

(b) a borrower must comply with the requirements of the provisional tax rules.

Compare: 1992 No 141 s 28

100 Consequence of failure to meet repayment obligations

A borrower may be liable to pay late payment interest if the borrower does not meet his or her repayment obligations under this subpart (*see* section 139(1)).

Reduction of deduction rate for borrower with lower repayment obligation
[Repealed]

Heading: repealed (with effect on 1 April 2012), on 12 April 2012, by section 29 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

101 Borrower may apply for reduction of deduction rate to reflect lower repayment obligation

[Repealed]

Section 101: repealed (with effect on 1 April 2012), on 12 April 2012, by section 29 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

102 Special deduction rate certificate for lower repayment obligation

[Repealed]

Section 102: repealed (with effect on 1 April 2012), on 12 April 2012, by section 29 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

103 Issue and application of special deduction rate certificate
[Repealed]

Section 103: repealed (with effect on 1 April 2012), on 12 April 2012, by section 29 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

104 Time when special deduction rate ceases to apply
[Repealed]

Section 104: repealed (with effect on 1 April 2012), on 12 April 2012, by section 29 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Subpart 4—Overseas-based borrowers' repayment obligations

105 Application of this subpart
This subpart applies to overseas-based borrowers.

106 Meaning of repayment holiday
In this subpart, **repayment holiday** means a period during which a borrower's overseas-based repayment obligation is reduced to zero.

Section 106: replaced (with effect on 1 April 2012), on 12 April 2012, by section 30 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Repayment holiday from overseas-based repayment obligations

Heading: replaced (with effect on 1 April 2012), on 12 April 2012, by section 30 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

107 Borrowers who intend to be overseas-based may apply for repayment holidays
(1) A borrower may, by notifying the Commissioner, apply to the Commissioner for a repayment holiday if he or she intends to be overseas-based.

(2) The application may be made from New Zealand or from overseas, but no application may be made by an overseas-based borrower.

Section 107: replaced (with effect on 1 April 2012), on 12 April 2012, by section 30 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

107A Contact person to be nominated

(1) At the time of making an application under section 107, the borrower must nominate, as the borrower's contact person, an individual who resides in New Zealand.

(2) The borrower nominates a contact person by notifying the Commissioner of an individual who is willing to act as the borrower's contact person and by specifying the following details in that notification:
   (a) the name of the individual:
   (b) a New Zealand postal address for the individual:
   (c) an electronic address for the individual (if the individual has one):
   (d) a New Zealand telephone number for the individual (if the individual has one):
   (e) any further information specified in regulations.

Section 107A: inserted (with effect on 1 April 2012), on 12 April 2012, by section 30 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

107B Grant of repayment holiday

(1) The Commissioner may grant a repayment holiday to a borrower who applies under section 107 if satisfied that the borrower—
   (a) has not reached the borrower's limit; and
   (b) has complied with section 107A.

(2) A borrower who is granted a repayment holiday becomes entitled to that repayment holiday on the day on which the borrower becomes overseas-based.

(3) For the purposes of this subpart, a borrower reaches the borrower's limit if—
   (a) the borrower has had 1 or more repayment holidays, granted under this Act, for a period of 365 days or for periods that total 365 days; or
   (b) the borrower has had 1 or more repayment holidays under Part 3 of the Student Loan Scheme Act 1992 for a period of 3 years or for periods that total 3 years; or
   (c) the borrower has had—
      (i) 1 or more repayment holidays under Part 3 of the Student Loan Scheme Act 1992 for a period of

less than 3 years or for periods that total less than 3 years; and

(ii) 1 or more repayment holidays, granted under this Act, for a period that equals, or for periods that in total equal, the lesser of—

(A) 365 days; and

(B) the remainder of the period of the repayment holiday to which the borrower would have been entitled under Part 3 of the Student Loan Scheme Act 1992 if that Act had not been repealed; or

(d) the borrower has had his or her repayment holiday under Part 3 of the Student Loan Scheme Act 1992 continued under section 108A(2) for the maximum period prescribed for that continuation.

Section 107B: inserted (with effect on 1 April 2012), on 12 April 2012, by section 30 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

108 Duration of repayment holiday

(1) Despite section 107B(2), for the purpose of determining the duration of a repayment holiday, the repayment holiday of a borrower who has become entitled to it under that subsection is deemed to have commenced on the first day of the period of the borrower's physical absence from New Zealand, being the period that resulted in the borrower becoming overseas-based.

(2) The repayment holiday of a borrower who has become entitled to it under section 107B(2) ends on the earlier of—

(a) the day that the borrower reaches the borrower's limit; and

(b) the day on which the borrower ceases to be overseas-based.

(3) A borrower's repayment obligation must be calculated in accordance with sections 110 and 111 if the borrower is, at any time, overseas-based after his or her repayment holiday has ended.

Section 108: replaced (with effect on 1 April 2012), on 12 April 2012, by section 30 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

108A Borrowers who have had, or are having, repayment holidays under Student Loan Scheme Act 1992

(1) A New Zealand-based borrower who has had 1 or more repayment holidays under Part 3 of the Student Loan Scheme Act 1992, but who has not reached the borrower's limit (within the meaning of section 107B(3)), must apply under section 107 if he or she wishes to have a repayment holiday under this Act.

(2) An overseas-based borrower who, as at 31 March 2012, has a repayment holiday under Part 3 of the Student Loan Scheme Act 1992 that, but for the repeal of that Act, would have continued under that Act continues to have a repayment holiday under this Act, but for no longer than the lesser of—

(a) 365 days; and

(b) the remainder of the period of the repayment holiday to which the borrower would have been entitled under Part 3 of the Student Loan Scheme Act 1992 if that Act had not been repealed.

(3) The repayment obligation of a borrower to whom subsection (2) applies must be calculated in accordance with sections 110 and 111 if the borrower is, at any time, overseas-based after his or her repayment holiday has ended in accordance with that subsection.

Section 108A: inserted (with effect on 1 April 2012), on 12 April 2012, by section 30 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Assessment of overseas-based repayment obligation

109 Assessments for years in which borrower is overseas-based

(1) The Commissioner must assess the amount (if any) of a borrower's overseas-based repayment obligation for a tax year as soon as practicable after being notified that, or becoming aware that, the borrower is or was overseas-based.

(2) The Commissioner must assess the amount of a borrower's overseas-based repayment obligation for each tax year, or part of a tax year, during which the borrower is or was overseas-based.

(3) In making an assessment under this section, the Commissioner may have regard to any information that the Commissioner considers to be relevant.

(4) The assessment must be made in accordance with this subpart and the loan contract.

(5) Section 203 applies if there is an inconsistency between this subpart and the loan contract.

(6) The Commissioner must, as soon as practicable after making an assessment, notify the borrower in writing of—

(a) the borrower's overseas-based repayment obligation for the tax year; and

(b) the due dates on or before which the overseas-based repayment obligation must be paid (*see* section 112); and

(c) the amounts that must be paid on or before those due dates.

(7) Subsection (6) does not apply if the amount assessed is zero.

Compare: 1992 No 141 s 36B

Calculation and payment of overseas-based repayment obligation

110 Repayment obligations of overseas-based borrowers

(1) This section applies to an overseas-based borrower who is not, or is no longer, entitled to a repayment holiday under section 107B or 108A(2).

(2) If the borrower's consolidated loan balance is less than $1,000, the borrower's repayment obligation for a tax year (or, if applicable, part of a tax year) during which this section applies to the borrower is the amount of the borrower's consolidated loan balance.

(3) If the borrower's consolidated loan balance is—

(a) $1,000 or more, but less than or equal to $15,000, the borrower's repayment obligation is $1,000 for each full tax year during which the borrower is overseas-based:

(b) more than $15,000, but less than or equal to $30,000, the borrower's repayment obligation is $2,000 for each full tax year during which the borrower is overseas-based:

(c) more than $30,000, the borrower's repayment obligation is $3,000 for each full tax year during which the borrower is overseas-based.

(4) The borrower's repayment obligation for the portion of a tax year (being less than a full tax year) during which this section applies is calculated in accordance with the formula—

$$\frac{a}{365} \times b$$

where—

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

b is one of the following:

(a) $1,000, if the borrower's consolidated loan balance is $1,000 or more, but less than or equal to $15,000; or

(b) $2,000, if the borrower's consolidated loan balance is more than $15,000, but less than or equal to $30,000; or

(c) $3,000, if the borrower's consolidated loan balance is more than $30,000.

(5) If the amount of a threshold or the amount of a repayment obligation set out in subsections (2) to (4) is changed by regulations, that amount is changed accordingly.

(6) In this section, **consolidated loan balance** means,—

(a) for the first tax year during a period when this section applies to a borrower, the borrower's consolidated loan balance on the date on which this section first applies to the borrower in that period; and

(b) for each subsequent tax year (**year A**) during that period, the sum determined by—

(i) including the amount of the borrower's consolidated loan balance on 31 March in the year prior to year A (the **previous year**); and

(ii) including the amount of any annual administration fee charged under section 189 for the previous year; and

(iii) subtracting any 10% bonus the borrower is entitled to under Part 3 for an excess repayment for the previous year.

Compare: 1992 No 141 s 34

Section 110(1): replaced (with effect on 1 April 2012), on 12 April 2012, by section 31(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 110(6)(b)(iii): amended (with effect on 1 April 2012), on 12 April 2012, by section 31(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

111 Exceptions to repayment obligations of overseas-based borrowers

(1) For each tax year in which an overseas-based borrower has an unpaid amount but has no loan balance, the borrower's repayment obligation is zero.

(2) For each tax year in which an overseas-based borrower's repayment obligation under section 110 is equal to or more than the borrower's loan balance, the borrower's repayment obligation is equal to the borrower's loan balance.

(3) Nothing in this section affects—

(a) a borrower's liability for an unpaid amount or late payment interest; or

(b) section 193.

(4) This section overrides section 110.

(5) In this section, **loan balance** means,—

(a) for the first tax year during a period when section 110 applies to a borrower, the borrower's loan balance on the date on which that section first applies to the borrower in that period; and

(b) for each subsequent tax year (**year A**) during that period, the sum determined by—

(i) including the amount of the borrower's loan balance on 31 March in the year prior to year A (the **previous year**); and

(ii) including the amount of any annual administration fee charged under section 189 for the previous year; and

(iii) subtracting any 10% bonus the borrower is entitled to under Part 3 for an excess repayment for the previous year.

Compare: 1992 No 141 ss 14(3), 35

Section 111(5)(b)(iii): amended (with effect on 1 April 2012), on 12 April 2012, by section 32 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

112 Repayment to be made by instalments

(1) A borrower's overseas-based repayment obligation for a tax year must be paid by the borrower as follows:

(a) half of the total amount must be paid in the tax year on or before 30 September:

(b) the other half of the total amount must be paid in the tax year on or before 31 March.

(2) If the total amount payable is not divisible into equal amounts, then the final payment carries the difference.

(3) However, a borrower's overseas-based repayment obligation for a tax year must be paid by the borrower in instalments as determined by the Commissioner if any repayment holiday granted to the borrower under section 107B or continued under section 108A(2) ends part-way through the tax year.

Compare: 1992 No 141 s 36

Section 112(3): replaced (with effect on 1 April 2012), on 12 April 2012, by section 33 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

113 Consequence of failure to meet repayment obligations

A borrower may be liable to pay late payment interest if the borrower does not meet his or her repayment obligations under this subpart (*see* section 139(1)).

Subpart 5—New Zealand-based non-resident borrowers and borrowers with New Zealand-based and overseas-based repayment obligations

114 Notification of worldwide income by New Zealand-based non-resident borrowers

(1) This section applies to a New Zealand-based borrower who is a non-resident.

(2) For each tax year and each part of a tax year to which this section applies to a borrower, the borrower must notify the Commissioner, in a manner acceptable to the Commissioner, of the borrower's annual gross income and annual total deductions.

(3) The borrower must notify the Commissioner at the time when, if the borrower were a New Zealand resident, he or she would have had to provide—
   (a) a declaration of pre-taxed income; or
   (b) a return of income for a tax year.

(4) The Commissioner may require the borrower to provide evidence of the borrower's annual gross income and annual total deductions.

Compare: 1992 No 141 s 14A

114A Extension of time for making notification of worldwide income

(1) This section applies if section 114(2) applies.

(2) A borrower may apply to the Commissioner for an extension of time for the making of a notification of the borrower's annual gross income and annual total deductions in accordance with section 37(3) to (5) of the Tax Administration Act 1994, and those subsections apply, as far as applicable and with all necessary modifications, as if—
   (a) the reference to "the due date required under this section" were a reference to "the due date required under section 114(3) of the Student Loan Scheme Act 2011"; and
   (b) every reference to a taxpayer were a reference to a borrower; and
   (c) every reference to a return or a return of income were a reference to a notification of the borrower's annual gross income and annual total deductions.

Section 114A: inserted (with effect on 1 April 2012), on 12 April 2012, by section 34 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

115 Repayment obligations of borrowers who are overseas-based for part of tax year

(1) If a borrower is both New Zealand-based and overseas-based during a tax year,—

(a) subparts 1 to 3 apply to the borrower for the period in the tax year during which he or she is New Zealand-based (the **New Zealand-based period**), except that, for the purposes of subparts 2 and 3, the amount of the annual repayment threshold for the tax year must be proportionately decreased to the same proportion as the number of days in the New Zealand-based period bears to the number of days in a year; and

(b) only the income that the borrower derived during the period that the borrower was New Zealand-based during the year must be taken into account when calculating the borrower's repayment obligation under subparts 1 to 3; and

(c) section 110(4) or 111 (as applicable) applies to any portion of the tax year during which the borrower is overseas-based and is not entitled to a repayment holiday (as defined in section 106); and

(d) the borrower's overseas-based repayment obligation is payable in instalments as determined by the Commissioner.

(2) Subsection (1) applies despite anything to the contrary in this Act.

Compare: 1992 No 141 ss 14(2), 36A

Section 115(1)(c): replaced (with effect on 1 April 2012), on 12 April 2012, by section 35 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

116 Overseas-based borrowers who derive salary or wages from New Zealand

(1) Subpart 1 applies to an overseas-based borrower who derives salary or wages from New Zealand as if the borrower were New Zealand-based.

(2) Subsection (1) applies despite anything to the contrary in this Act.

117 Overseas-based borrower's standard and Commissioner deductions satisfy overseas-based repayment obligation

(1) A specified deduction that is made for an overseas-based borrower in a tax year satisfies (so far as it extends) each future

obligation of the borrower that has a due date in that tax year in the order in which those obligations become due.

(2) In this section,—

future obligation means an instalment of an overseas-based borrower's repayment obligation for a tax year that must be paid in accordance with section 112 or 115(1)(d)

specified deduction means the following deductions made (in accordance with section 116) from the salary or wages an overseas-based borrower derives from New Zealand:

(a) a standard deduction:

(b) so much of a Commissioner deduction for the purposes set out in section 49(1)(a) as the Commissioner considers relates to a significant under-deduction that occurred while the borrower was overseas-based.

(3) *[Repealed]*

Section 117(3): repealed (with effect on 1 April 2012), on 12 April 2012, by section 36 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Part 3
Excess repayments

118 Interpretation

In this Part, unless the context otherwise requires,—

10% bonus means the bonus specified in, as appropriate, section 123(2), or 124(2)

final excess repayment means an excess repayment that, when combined with the resulting 10% bonus, results in the borrower's consolidated loan balance being fully repaid.

Compare: 1992 No 141 s 45A

Section 118 **10% bonus**: amended (with effect on 1 April 2012), on 12 April 2012, by section 37 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

119 Meaning of excess repayment

(1) A borrower makes an excess repayment in relation to a tax year if, as at the close of that tax year, that borrower's total payments exceed his or her total obligations.

(2) In determining whether an excess repayment has been made, the Commissioner must—

(a) disregard a salary or wage deduction or a payment made to the Commissioner that is subsequently refunded; and
(b) treat a borrower's repayment obligation as if any relief granted under section 147 had not been granted; and
(c) disregard any fee refunded by an education provider to the loan manager or the Commissioner.

(3) In this section,—

total obligations means—
(a) all unpaid amounts; and
(b) any standard deductions that were deducted in the tax year except—
  (i) a significant over-deduction; or
  (ii) a standard deduction or Commissioner deduction for the purposes set out in section 49(1)(a) made (in accordance with section 116) from the salary or wages an overseas-based borrower derives from New Zealand; and
(c) any Commissioner deductions for the purposes set out in section 49(1)(a) that were deducted in the tax year; and
(d) any other income repayment obligations for the tax year; and
(e) any pre-taxed repayment obligation for the tax year; and
(f) any overseas-based repayment obligation for the tax year; and
(g) any amount that must be paid by a borrower in accordance with a written notification under section 52 for the tax year; and
(h) penalties imposed under subpart 3 of Part 4

total payments means—
(a) all salary or wage deductions that were deducted in the tax year (including salary and wage deductions made in accordance with section 116 from the salary or wages an overseas-based borrower derives from New Zealand); and
(b) all payments received by the Commissioner during the tax year for a borrower who—
  (i) does not have to pay interim payments for the tax year; or

(ii) must pay the final instalment of an overseas-based repayment obligation in the tax year; and

(c) for a borrower who must pay interim payments for the tax year, all payments that—

(i) are received by the Commissioner on or before the due date of the borrower's final interim payment for the tax year; and

(ii) are for the tax year; and

(d) for a borrower who must pay the final instalment of an overseas-based repayment obligation after the tax year, all payments that—

(i) are received by the Commissioner on or before the due date of the final instalment; and

(ii) are for the tax year; and

(e) any excess repayment from a prior tax year that is used to satisfy a repayment obligation for the tax year in accordance with section 132(1)(b).

Compare: 1992 No 141 s 45B

Section 119(2): replaced (with effect on 1 April 2012), on 12 April 2012, by section 38(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 119(3) **total obligations**: replaced (with effect on 1 April 2012), on 12 April 2012, by section 38(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 119(3) **total payments** paragraph (a): replaced (with effect on 1 April 2012), on 12 April 2012, by section 38(3) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

120 Commissioner must notify borrower of excess repayment

(1) Subsection (2) applies if—

(a) an excess repayment is made for a borrower; or

(b) upon investigation by the Commissioner of a borrower's repayment obligation for a prior tax year, the Commissioner is satisfied that—

(i) the repayment obligation assessed by the Commissioner is incorrect; and

(ii) as a result, an excess repayment has been made.

(2) The Commissioner must, as soon as practicable, notify the borrower in writing—

(a) that an excess repayment has been made for the borrower; and

(b) of the amount of the excess repayment; and
(c) that the excess repayment has been offset against the borrower's consolidated loan balance; and
(d) of the borrower's options in relation to the excess repayment (*see* section 121); and
(e) of the time frames within which the borrower must notify the Commissioner if the borrower wishes to exercise 1 or more of those options.

(3) Subsection (2) does not apply if the excess repayment is $5 or less.

Compare: 1992 No 141 s 58A

121 Options that apply to excess repayments

(1) If an excess repayment is made for a borrower, the borrower may—
(a) be eligible to receive a 10% bonus in accordance with subpart 1; or
(b) choose to receive a refund of the excess repayment in accordance with subpart 2; or
(c) choose to use the excess repayment to satisfy a future repayment obligation of the borrower in accordance with subpart 2.

(2) However, any part of an excess repayment that exceeds a borrower's consolidated loan balance—
(a) is not eligible for a 10% bonus; and
(b) must be refunded by the Commissioner (*see* sections 199 and 200).

(3) Subsection (2) overrides section 131(1)(a).

122 Exception to general rule if repayment obligations for prior tax years reassessed

(1) Subsection (2) applies if, upon investigation by the Commissioner of a borrower's repayment obligations for 2 or more prior tax years (the **investigated years**),—
(a) the Commissioner assesses the borrower as having a repayment obligation for an investigated year for which no assessment has been made previously, or alters an assessment for an investigated year so as to increase the repayment obligation; and

(b) the Commissioner also identifies that an excess repayment has been made for an investigated year.

(2) If this subsection applies,—

(a) the Commissioner may, to the extent that he or she considers equitable, offset the excess repayment against any repayment obligation due for any of the investigated years; and

(b) sections 120 and 121 apply only to so much of the excess repayment (if any) as is not offset against a repayment obligation in accordance with paragraph (a).

(3) Subsection (2) applies despite anything to the contrary in this Act.

Compare: 1992 No 141 s 58

Subpart 1—Excess repayment bonus

123 Borrower's entitlement to 10% bonus for excess repayment of $500 or more

(1) Subsection (2) applies to a borrower if—

(a) the borrower's excess repayment for a tax year is $500 or more; and

(b) at the beginning of the tax year for which the excess repayment was made, the borrower's loan balance was $550 or more.

(2) The Commissioner must reduce the borrower's loan balance by an amount equal to 10% of the borrower's excess repayment for the relevant tax year.

Compare: 1992 No 141 s 45C

124 Borrower's entitlement to bonus if loan balance is less than $550

(1) Subsection (2) applies to a borrower if—

(a) the borrower's final excess repayment for a tax year is $500; and

(b) at the date on which the final excess repayment was made, the borrower's loan balance was more than $500 but less than $550.

(2) The Commissioner must reduce the borrower's loan balance to zero.

Compare: 1992 No 141 s 45D

125 Borrower may be entitled to 10% bonus if under-deduction is due to PAYE system

[Repealed]

Section 125: repealed (with effect on 1 April 2012), on 12 April 2012, by section 39 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

126 Time at which 10% bonus is credited

(1) If a borrower's loan balance will be fully repaid as a result of being reduced by a 10% bonus, that bonus must be credited to the borrower's loan balance with effect from the date on which the final excess repayment was made.

(2) If a borrower's loan balance will not be fully repaid as a result of being reduced by a 10% bonus, that bonus must be credited to the borrower's loan balance with effect from—

(a) 1 April in the tax year that follows the tax year for which the excess repayment was made; or

(b) any other date that the Commissioner considers appropriate if the borrower dies or is declared bankrupt.

(3) However, the Commissioner must not credit a 10% bonus to a borrower's loan balance in accordance with subsection (1) or (2) until the earlier of the following:

(a) the Commissioner determines the borrower's excess repayment for the tax year; or

(b) the Commissioner is satisfied that there is unlikely to be any further activity in relation to the borrower's student loan.

(4) If the Commissioner credits a borrower's loan balance in accordance with subsection (3)(b), the Commissioner may reverse that action and instead credit the borrower's loan balance in accordance with subsection (3)(a) if—

(a) the borrower requests the Commissioner to do so; or

(b) the Commissioner considers that it is appropriate in the circumstances.

(5) A request under subsection (4)(a) must be made by notifying the Commissioner (*see* section 211).

Compare: 1992 No 141 s 45F(1)–(3)

127 Restriction on amount of 10% bonus

(1) The total amount of a 10% bonus that may be credited to a borrower must not exceed an amount equal to one-eleventh of the borrower's loan balance on either—

(a) the date on which the 10% bonus is credited; or

(b) an earlier date determined by the Commissioner, at his or her discretion, that is within the relevant tax year.

(2) The Commissioner may determine a date under subsection (1)(b) for a borrower only if—

(a) 1 or more excess repayments are made for a tax year; and

(b) a final excess repayment was made for the same tax year.

Compare: 1992 No 141 s 45F(4), (5)

128 Application of sections 118 to 122 and this subpart to part years

If a 10% bonus is credited to a borrower's loan balance part-way through a tax year, then—

(a) sections 118 to 122 and this subpart must be interpreted as if all references to a tax year were a reference to a tax year that ends on the day on which the 10% bonus is credited to the borrower's loan balance; and

(b) the reference to all repayment obligations for the tax year in the definition of total obligations in section 119(3) were a reference to all repayment obligations payable during the tax year.

129 Consequences of refund or credit to next tax year

(1) If the whole or part of a borrower's excess repayment for a tax year is refunded or used to satisfy a future repayment obligation of the borrower in accordance with subpart 2, any 10% bonus that was credited to that borrower must be reduced to an amount equal to 10% of the remaining excess repayment (if any) for the tax year that is $500 or more.

(2) *[Repealed]*

Compare: 1992 No 141 s 45G

Section 129(2): repealed (with effect on 1 April 2012), on 12 April 2012, by section 40 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

130 Commissioner must advise borrowers to seek financial advice

The Commissioner must, in all material that provides information about 10% bonuses and that is made available to all borrowers, include a statement to the effect that borrowers are advised to seek appropriate financial advice before making excess repayments in order to obtain a 10% bonus.

Compare: 1992 No 141 s 45H

Subpart 2—Refund of excess repayments and satisfaction of future repayment obligation

131 Limit on use of excess repayments

(1) If an excess repayment is $5 or less, the Commissioner may refrain from—

(a) refunding the excess repayment to a borrower; or

(b) using the excess repayment to satisfy a future repayment obligation of the borrower.

(2) This section overrides section 132.

Compare: 1992 No 141 s 51(1)

132 Borrower may receive refund or apply excess repayment to future repayment obligations

(1) A borrower may choose for the whole or part of an excess repayment to be—

(a) refunded (*see* sections 199 and 200); or

(b) used to satisfy a future repayment obligation of the borrower.

(2) To exercise a choice under subsection (1), the borrower must notify the Commissioner in a manner acceptable to the Commissioner within 6 months after the date on which the borrower was notified of the excess repayment in accordance with section 120.

(3) A choice made by the borrower to receive a refund of an excess repayment is irrevocable.

Compare: 1992 No 141 ss 56, 57

Part 4
Interest, relief, penalties and offences, rights of objection, and rights to challenge

Subpart 1—Interest

133 No interest applied to student loans except as specified in this Part

Except as provided in this Part, no interest is payable on a consolidated loan balance.

Loan interest charged for all borrowers

134 Loan interest charged for all borrowers

(1) A borrower is liable to pay loan interest on his or her loan balance for each day that the borrower has a loan balance.

(2) Loan interest must be calculated in accordance with the formula—

$$a = \frac{(b \times c)}{365}$$

where—

a is the loan interest

b is the borrower's loan balance on the relevant day

c is the base interest rate.

135 Loan interest calculated daily and charged and compounded annually

(1) Loan interest is calculated and accrues each day that a borrower has a loan balance.

(2) Loan interest is charged and added to a borrower's loan balance on the last day of each year or an earlier date determined by the Commissioner, at his or her discretion, that is within the relevant tax year.

Section 135(1): amended (with effect on 1 April 2012), on 12 April 2012, by section 41(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 135(2): amended (with effect on 1 April 2012), on 12 April 2012, by section 41(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

136 Notification that loan interest has compounded

(1) The Commissioner must, as soon as practicable after loan interest has been added to a borrower's loan balance in accordance with section 135(2), notify the borrower in writing—
   (a) that loan interest has been added to the borrower's loan balance; and
   (b) of the new total of the borrower's loan balance; and
   (c) that the new total of the borrower's loan balance is itself subject to loan interest.

(2) The Commissioner may notify a borrower in writing of the borrower's loan balance and loan interest at any other time the Commissioner chooses.

Compare: 1992 No 141 s 43(1)

137 Full interest write-off for New Zealand-based borrowers

The amount of loan interest calculated on a borrower's loan balance must be reduced to zero for each day that the borrower is New Zealand-based.

Compare: 1992 No 141 ss 38AA, 38AK

138 Loan interest written off for quick repayment of consolidated loan balance

(1) This section applies to a person who—
   (a) was an overseas-based borrower; and
   (b) would subsequently have been treated as being New Zealand-based except that he or she ceased to be a borrower because of paragraph (c); and
   (c) fully repaid his or her consolidated loan balance before the end of the period of 183 consecutive days under which the borrower would have been treated as being New Zealand-based.

(2) Loan interest that is charged on the person's loan balance is reduced to zero for the period—
   (a) starting on the first day of the 183-day period; and

(b) ending on the day on which the person's consolidated loan balance was fully repaid.

Compare: 1992 No 141 s 38AM

Late payment interest

139 Late payment interest charged on unpaid amount

(1) A borrower is liable to pay late payment interest on each unpaid amount if that unpaid amount is $334 or more (or any other level prescribed by regulations).

(2) Late payment interest is calculated, charged, and added to a borrower's unpaid amount as follows:

(a) 0.843% of the unpaid amount on the day after its due date; and

(b) 0.843% of the unpaid amount as at each day that falls 1 month after the day on which late payment interest is imposed under paragraph (a) or under this paragraph.

Compare: 1992 No 141 s 44

140 Notification of late payment interest

The Commissioner must, as soon as practicable after charging late payment interest, give the borrower charged with that interest written notice of the amount of that interest.

Compare: 1992 No 141 s 45

141 Monthly late payment interest written off if instalment arrangement complied with

(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 borrower has entered into an instalment arrangement in relation to the unpaid amount in accordance with section 154.

(2) The unpaid amount continues to be subject to late payment interest despite the instalment arrangement.

(3) However, the borrower's unpaid amount is reduced by the amount of all late payment interest that accrued on the unpaid amount under section 139(2)(b) during the period of the instalment arrangement if—

(a) the instalment arrangement ends; and
(b) the borrower met his or her obligations under the instalment arrangement.

Matters of general application to interest

142 No interest on consolidated loan balance in credit

No interest is payable on—
(a) a consolidated loan balance that is in credit:
(b) an excess repayment:
(c) a payment that is made under this Act before its due date.

Compare: 1992 No 141 s 42

143 Commissioner's power to correct interest when charged in error

(1) All amounts of interest charged must be taken to be correct unless a borrower establishes by proceedings under Part 8A of the Tax Administration Act 1994 that he or she should not have been charged with the amount of interest that was charged.
(2) However, the Commissioner may amend an amount of interest charged if this is necessary to correct an error.
(3) If an amount of interest charged is corrected, the Commissioner must notify the relevant borrower in writing as soon as practicable after the amendment.

Compare: 1992 No 141 s 43(2)–(4)

Subpart 2—Relief

Different types of relief

144 Power of Commissioner in relation to small amounts

(1) The Commissioner may refrain from—
(a) issuing a notice of assessment in relation to a repayment obligation that is payable by a borrower for a tax year if the amount payable is less than $20; or
(b) issuing a notice of assessment if the total amount of a borrower's remaining repayments for a tax year is less than $20; or

(c) collecting a repayment obligation that is payable by a borrower for a tax year if the amount payable is less than $20; or

(d) collecting 1 or more remaining repayments that are payable by a borrower for a tax year if the total amount of the borrower's remaining repayments payable for the tax year is less than $20; or

(e) collecting, and may write-off, any amount that is payable by an employer or PAYE intermediary for any period under this Act if the amount payable is $20 or less.

(2) The Commissioner may refrain from collecting payment of a repayment obligation (or part of a repayment obligation) if that repayment obligation (or part of a repayment obligation)—

(a) is more than $20 but less than $334; and

(b) has not been paid by the due date (as that term is defined in section 5(2)).

(3) Any amount that the Commissioner refrains from collecting—

(a) under subsection (1)(c) or (d) is not written off, and remains part of the borrower's loan balance:

(b) under subsection (2) is not written off, and is added to the borrower's loan balance.

(4) This section applies despite anything to the contrary in this Act.

Compare: 1992 No 141 ss 51(2)–(5), 51A

145 Application for different types of relief for borrower

(1) A borrower, or a person on a borrower's behalf, may apply for 1 or more of the following:

(a) relief from late payment interest (*see* section 146):

(b) hardship relief for the current tax year, any prior tax year, or the next tax year (*see* section 147):

(c) financial relief by entry into an instalment arrangement (*see* section 154).

(2) An application under subsection (1)(a) must be made by notifying the Commissioner in a manner acceptable to the Commissioner.

(3) An application under subsection (1)(b)—

(a) must be made by notifying the Commissioner in a manner acceptable to the Commissioner:

(b) that relates to hardship relief for the next tax year must be made on or before 31 March in the tax year that immediately precedes the tax year for which relief is sought.

(4) An application under subsection (1)(c) must be made in accordance with section 154(1).

Compare: 1992 No 141 s 54

Relief from late payment interest

146 Commissioner may grant relief from late payment interest

(1) Subsection (2) applies—

(a) if a borrower has been charged with late payment interest; and

(b) regardless of whether that late payment interest has been paid, either in whole or in part; and

(c) if an application is made under section 145(1)(a) for relief from late payment interest.

(2) The Commissioner may, having regard to the circumstances of the case and if the Commissioner considers it equitable to do so, grant relief to the borrower by cancelling as much of the late payment interest as the Commissioner considers equitable.

(3) So much of any cancelled late payment interest that has already been paid must be offset as follows:

(a) first, against any unpaid amount the borrower has; and

(b) secondly, any remainder must be offset against the borrower's current year obligations; and

(c) thirdly, any remainder must be offset against the borrower's loan balance.

(4) Where any amount is, under subsection (3)(c), applied to the loan balance, the borrower may choose to have that amount refunded in whole or in part, and section 132(2) and (3) apply to that choice with all necessary modifications.

Compare: 1992 No 141 s 53

Section 146(3): replaced (with effect on 1 April 2012), on 12 April 2012, by section 42 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 146(4): inserted (with effect on 1 April 2012), on 12 April 2012, by section 42 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Hardship relief

147 Hardship relief for any tax year

(1) If an application is made under section 145(1)(b) for hardship relief, the Commissioner may, for any period the Commissioner considers equitable, decrease a borrower's repayment obligation if the Commissioner—

(a) is satisfied that payment of that repayment obligation is causing, or would cause, serious hardship to the borrower; or

(b) considers that there are other special reasons that make it fair and reasonable to do so.

(2) However, the Commissioner must not refund any amount that was deducted or paid to meet a repayment obligation for a tax year prior to the current tax year other than the tax year that immediately precedes the current tax year.

Compare: 1992 No 141 ss 55, 55A, 55B

148 Special deduction rate certificate for hardship relief

(1) Subsection (2) applies if—

(a) the Commissioner decreases the repayment obligation of a borrower under section 147; and

(b) the borrower derives salary or wages.

(2) The Commissioner may issue a special deduction rate certificate that—

(a) specifies a special deduction rate and the repayment code to be used that reflects the Commissioner's decision under section 147; and

(b) specifies the period for which the special deduction rate is to apply to the borrower; and

(c) requires the borrower's employer or PAYE intermediary to make deductions from the borrower's salary or wages at the special deduction rate.

(3) The issue of a special deduction rate certificate may form part of or all of the means by which a borrower's repayment obligation is decreased under section 147.

Compare: 1992 No 141 ss 20A(2), 55B

Section 148(2)(a): amended (with effect on 1 April 2012), on 12 April 2012, by section 43 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

149 Issue and application of special deduction rate certificate

(1) If the Commissioner issues a special deduction rate certificate under section 148, the Commissioner must give a copy of the certificate to the borrower.

(2) The special deduction rate certificate revokes all other special deduction rate certificates previously issued in relation to the borrower under section 45 or 148.

Compare: 1992 No 141 s 20A(5), (6)

Section 149(2): amended (with effect on 1 April 2012), on 12 April 2012, by section 44 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

150 Time when special deduction rate ceases to apply

The special deduction rate applies until the earlier of—

(a) the end of the period specified in the special deduction rate certificate; or

(b) the date on which the Commissioner notifies the employer in writing otherwise; or

(c) the date on which the borrower notifies the employer otherwise.

Compare: 1992 No 141 s 20A(4)

151 Effect of Commissioner's decision under section 147

An amount that, as a result of a decision under section 147, the Commissioner refunds to, or does not collect from, a borrower—

(a) is not written off; and

(b) remains part of the borrower's loan balance; and

(c) is not an unpaid amount.

Compare: 1992 No 141 s 55C

152 Borrowers must notify Commissioner of change of circumstances

A borrower who applies for hardship relief under section 145(1)(b) must notify the Commissioner, and provide details, as soon as practicable if there is a change in the borrower's circumstances that—

(a) means that any information supplied to the Commissioner under section 145 is incorrect or inaccurate; or

(b) may affect whether or not a borrower would have been, or will continue to be, granted hardship relief under section 147.

Compare: 1992 No 141 s 55D(1)

153 Commissioner may review grant of hardship relief

(1) The Commissioner may review any decision he or she made to grant hardship relief to a borrower.

(2) If for any reason the Commissioner considers that the circumstances for the grant of that hardship relief have changed, the Commissioner may do either or both of the following:

(a) require the borrower to take any action that is required to reverse the effects of the hardship relief that was granted to the borrower:

(b) reinstate all or part of the repayment obligation that would have applied to the borrower if hardship relief had not been granted to the borrower, and require payment of any amount that would have been due during the relevant tax year.

Compare: 1992 No 141 s 55D(2), (3)

Instalment arrangements

154 Application for instalment arrangement

(1) An application for entry into an instalment arrangement—

(a) may be made at any time in relation to an unpaid amount; and

(b) must be made in accordance with section 177(1)(b) of the Tax Administration Act 1994.

(2) Sections 177(1)(b) and (3) to (5), 177A, 177B, and 177CA of the Tax Administration Act 1994 apply to an application under subsection (1) and to an instalment arrangement granted as a result of that application, as far as applicable and with all necessary modifications, as if—

(a) every reference to a taxpayer included a borrower; and

(b) every reference to tax included an unpaid amount.

Subpart 3—Penalties and offences

Late filing penalties

155 Late filing penalty for certain declarations

(1) If a borrower does not complete and provide a declaration on time, the Commissioner may—
  (a) notify the borrower in writing that a late filing penalty will be imposed if the declaration is not completed and filed within 30 days of the date of the notification; or
  (b) give public notice that a late filing penalty will be imposed on borrowers who do not complete and file the declaration within 30 days of the date of the notice.

(2) A borrower is liable to pay a late filing penalty if—
  (a) the Commissioner notified the borrower or gave public notice in accordance with subsection (1); and
  (b) the declaration is not completed and filed within 30 days of the date of the notification or notice.

(3) The late filing penalty for a borrower with adjusted net income or net pre-taxed income—
  (a) below $100,000 is $50:
  (b) between $100,000 and $1,000,000 (both figures inclusive) is $250:
  (c) above $1,000,000 is $500.

(4) A borrower is not liable to pay a late filing penalty under both this section and under section 139A of the Tax Administration Act 1994 for the same declaration.

(5) In this section and section 156, **declaration** means—
  (a) a declaration of pre-taxed income:
  (b) a notification of a borrower's annual gross income and annual total deductions under section 114.

Compare: 1994 No 166 s 139A

Section 155(3): amended (with effect on 1 April 2012), on 12 April 2012, by section 45(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 155(5): amended (with effect on 1 April 2012), on 12 April 2012, by section 45(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

156 Due dates for payment of late filing penalty

A borrower who is liable to pay a late filing penalty must pay that penalty on or before the later of the following dates:

(a) the date that is 60 days after the date of the notification or notice given to the borrower under section 155(1):

(b) if the borrower does not have an extension of time to make a declaration under section 75 or 114A, the date in column B of the table in Part A of Schedule 3 of the Income Tax Act 2007 that corresponds to the month of the borrower's balance date:

(c) if the borrower does have an extension of time to make a declaration under section 75 or 114A, the date in column F of the table in Part A of Schedule 3 of the Income Tax Act 2007 that corresponds to the month of the borrower's balance date.

Compare: 1994 No 166 s 142

Section 156(b): amended (with effect on 1 April 2012), on 12 April 2012, by section 46 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 156(c): amended (with effect on 1 April 2012), on 12 April 2012, by section 46 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Student loan shortfall penalties

157 Definitions relating to student loan shortfall penalties

In this section and sections 158 to 161,—

incorrect tax position has the meaning given to it in section 158(b)

repayment obligation shortfall, for a tax year, means the difference between the effect of—

(a) a borrower's income tax position on his or her other income repayment obligation for the tax year; and

(b) the correct tax position on that repayment obligation for the tax year

shortfall penalty means a penalty imposed under any of sections 141A to 141E of the Tax Administration Act 1994 for taking an incorrect tax position or for doing or failing to do anything specified or described in those sections.

158 Student loan shortfall penalties may be imposed on certain borrowers

Section 159 applies to a borrower if—

(a) the borrower is liable to pay a shortfall penalty; and

(b) the incorrect tax position, action, or omission that resulted in the shortfall penalty (the **incorrect tax position**)—

(i) created a shortfall in the income tax paid or payable by the borrower; and

(ii) resulted in the borrower having a repayment obligation shortfall.

159 Commissioner may impose student loan shortfall penalties

(1) If this section applies to a borrower, the Commissioner may, at his or her discretion, impose a student loan shortfall penalty on the borrower.

(2) The amount of a student loan shortfall penalty is calculated in accordance with the formula—

$$a = b \times c$$

where—

a is the amount of the student loan shortfall penalty

b is the amount of the repayment obligation shortfall

c is the final percentage imposed under the Tax Administration Act 1994 for the shortfall penalty after adjustment, if any, under section 141FB, 141G, 141H, 141I, 141J, or 141K of the Tax Administration Act 1994, as applicable.

Compare: 1992 No 141 s 85

160 Notification of student loan shortfall penalty

(1) If the Commissioner imposes a student loan shortfall penalty on a borrower, the Commissioner must notify the borrower in writing.

(2) The notification must specify—

(a) the amount of the student loan shortfall penalty and the reasons for its imposition; and

(b) the date on or before which the student loan shortfall penalty must be paid (which must be 30 days or more after the date of the notification); and

(c) the amount of the repayment obligation shortfall that remains due and payable and that that amount is subject to late payment interest.

(3) The borrower must pay the student loan shortfall penalty on or before the date specified in the notification.

161 Student loan shortfall penalty reduced or removed to reflect change to shortfall penalty

(1) Subsection (2) applies if—
- (a) a borrower challenges a shortfall penalty; and
- (b) as a result, the shortfall penalty is reduced or removed; and
- (c) the shortfall penalty was the basis for the Commissioner imposing a student loan shortfall penalty on the borrower under section 159.

(2) The Commissioner must, as appropriate, reduce or remove the borrower's student loan shortfall penalty to reflect the decision that was made in relation to the shortfall penalty.

Offences

162 Certain offence provisions in Tax Administration Act 1994 apply to borrowers

(1) The sections of the Tax Administration Act 1994 that apply to borrowers and their consolidated loan balances include—
- (a) section 143 (absolute liability offences):
- (b) section 143A (knowledge offences):
- (c) section 143B (evasion or similar offence):
- (d) section 148 (aiding or abetting).

(2) Sections 149 to 150A of the Tax Administration Act 1994 apply, as far as applicable and with all necessary modifications, for the purposes of the sections listed in subsection (1), as if—
- (a) every reference to a taxpayer were a reference to a borrower; and
- (b) every reference to income tax were a reference to a repayment obligation.

163 Offence to prejudice employees because of student loan repayment liability

(1) An employer commits an offence against this Act if the employer—

(a) refuses to employ, or to pay salary or wages to, another person because that person is a borrower; or

(b) dismisses, or threatens to dismiss, another person from his or her employment because that person is a borrower; or

(c) terminates, or threatens to terminate, the payment of salary or wages to another person because that person is a borrower; or

(d) prejudices, or threatens to prejudice, another person in his or her employment or otherwise in the receipt of salary or wages because that person is a borrower; or

(e) intimidates or coerces, imposes any pecuniary or other penalty on, or takes any other disciplinary action in relation to another person because that person is a borrower.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $2,000.

(3) If an employer is convicted of an offence against subsection (1), the Court may order the payment of compensation to the borrower for loss or damage suffered as a result of the offence.

Compare: 1992 No 141 s 81

164 Proceedings to be taken summarily

A proceeding for an offence against section 163 must be taken by way of summary prosecution before a District Court Judge upon the information of the Commissioner.

Compare: 1992 No 141 s 82

165 Information may charge several offences

(1) An information may charge the defendant with any number of offences against section 163 if those offences are founded on the same set of facts, or form or are part of a series of offences of the same or similar character.

(2) If an information charges more than 1 offence,—

(a) particulars of each offence charged must be set out separately in the information; and

(b) all of those charges must be heard together, unless the court, either before or at any time during the hearing,

considers it just that any charge should be heard separately and makes an order to that effect.

Compare: 1992 No 141 s 83

166 Information may be laid within 10 years

(1) An information for an offence against section 163 may be laid at any time within 10 years after the end of the tax year in which the offence was committed.

(2) Subsection (1) applies despite anything in the Summary Proceedings Act 1957 or in any other Act.

Compare: 1992 No 141 s 84

Subpart 4—Borrower's right to object to loan manager about details of loan advances

167 Borrowers may object to details of loan advances

(1) A borrower may object to the details of a loan advance made or charged to the borrower set out in a notification given to the borrower in accordance with section 18.

(2) However, a borrower may object only if the borrower reasonably believes that those details are incorrect.

(3) An objection under subsection (1) must—
- (a) state the reasons for the objection; and
- (b) be made by notifying the loan manager in writing (*see* section 212); and
- (c) include a copy of the notification given to the borrower; and
- (d) be received by the loan manager on or before the date stated in the notification in accordance with section 18(2)(e).

(4) However, the loan manager may extend the time allowed under subsection (3)(d).

Compare: 1992 No 141 ss 6, 10

168 Loan manager must consider objections

(1) The loan manager must consider all objections made in accordance with section 167.

(2) The loan manager must, as soon as practicable,—

(a) notify the objector in writing of the loan manager's decision in respect of the objection, and of the reasons for that decision; and

(b) notify the Commissioner (in the manner determined by the Commissioner and the loan manager) of the loan manager's decision in respect of the objection.

Compare: 1992 No 141 s 7

169 Power to require objection to be determined by chief executive

(1) If an objection under section 167 is not wholly allowed by the loan manager, the objector may, by formally notifying the chief executive, require that the objection be determined by the chief executive.

(2) A notification under subsection (1) must be given within 21 days after the date on which the loan manager notifies the objector of the decision under section 168(2)(a).

(3) However, the chief executive may extend the time allowed under subsection (2).

Compare: 1992 No 141 ss 8, 10

170 Chief executive must consider objections required to be determined by chief executive

(1) The chief executive must consider all objections that the chief executive is required to determine under section 169.

(2) The chief executive must, as soon as practicable,—

(a) notify the objector in writing of the chief executive's decision in respect of the objection, and of the reasons for that decision; and

(b) notify the loan manager in writing of the chief executive's decision in respect of the objection, and of the reasons for that decision.

(3) The loan manager must, as soon as practicable, notify the Commissioner (in the manner determined by the Commissioner and the loan manager) of the chief executive's decision in respect of the objection.

Compare: 1992 No 141 s 9

171 Right to apply to Disputes Tribunal or District Court

(1) Subsection (2) applies if an objection under section 167 that the chief executive is required to determine under section 169 is not wholly allowed by the chief executive.

(2) The objector may, within 30 days after the date on which the chief executive notifies the objector of the decision under section 170(2)(a), either—

(a) apply to a Disputes Tribunal for determination of the dispute if the amount in dispute is within the financial jurisdiction of the Disputes Tribunal; or

(b) apply to a District Court for determination of the dispute.

(3) A Referee of a Disputes Tribunal or a District Court Judge, as applicable, may extend the time allowed under subsection (2) for applying to a Disputes Tribunal or District Court.

(4) No objection to which section 167 or 169 applies may be heard and determined by a Disputes Tribunal or a District Court.

(5) Subsection (4) applies—

(a) despite anything in the Disputes Tribunals Act 1988 or the District Courts Act 1947; but

(b) subject to subsections (1) and (2).

Compare: 1992 No 141 s 11

172 Notification of Disputes Tribunal's or District Court's decision about objection

The loan manager must, as soon as practicable, notify the Commissioner (in the manner determined by the Commissioner and the loan manager) of a Disputes Tribunal's or District Court's decision in respect of an objection under section 171.

Subpart 5—Dispute procedures and rights to challenge

Dispute procedures

173 Part 4A of Tax Administration Act 1994 applies to disputes under this Act

(1) The procedures in Part 4A of the Tax Administration Act 1994 apply, with all necessary modifications, to a dispute between a person and the Commissioner under this Act.

(2) However, subsection (1) does not apply to an objection to the details of a loan advance made or charged to a borrower (*see* section 167).

Compare: 1992 No 141 s 69A

Rights to challenge

174 Dispute process must be completed before challenge is made

A person may challenge a matter under this subpart only after the dispute process applied by section 173 has been concluded in relation to that matter.

Compare: 1992 No 141 s 69A

175 Challenge to details of consolidated loan balance

A borrower may challenge any information (other than the details of a loan advance made or charged to the borrower) provided to the borrower under section 19 if the borrower reasonably believes that that information is incorrect.

176 Challenge to decision concerning treating borrowers as being physically in New Zealand

A borrower may challenge a decision by the Commissioner—

(a) not to treat the borrower as being physically in New Zealand under section 25(1) on the ground that that decision is not fair and reasonable:

(b) that a condition in any of clauses 2 to 10 of Schedule 1 is not satisfied by the borrower on the ground that that decision is erroneous:

(c) concerning the start and end dates for the period for which the borrower is treated as being physically in

New Zealand under section 27(b)(i) on the ground that those dates are—

(i) not fair and reasonable; or

(ii) erroneous:

(d) concerning the conditions that must apply or be met in order for the borrower to be treated as being physically in New Zealand under section 27(b)(ii) on the ground that those conditions are—

(i) not fair and reasonable; or

(ii) erroneous.

Compare: 1992 No 141 s 65A

177 Challenge to special deduction rate certificate for unused repayment threshold

(1) A borrower may challenge a decision by the Commissioner not to issue a special deduction rate certificate in relation to the borrower under section 45 on the ground that that decision is not fair and reasonable.

(2) A borrower who has been issued with a special deduction rate certificate under section 45 may challenge the certificate on the ground that it is erroneous.

178 Challenge to additional deduction rate notice

A borrower who has been issued with an additional deduction rate notice under section 49(2) may, on the ground that the notice is erroneous or excessive or has been issued in error, challenge the notice.

179 Challenge to determination of salary or wage deduction

An employer or PAYE intermediary who is required to make a salary or wage deduction may, on the ground that the determination is erroneous, challenge a determination made under section 62(2).

Compare: 1992 No 141 s 67

180 Challenge to decision regarding significant over-deduction

A borrower may challenge—

(a) a determination by the Commissioner under section 66 that a significant over-deduction was not made, on the ground that the determination is erroneous:

(b) the amount of a significant over-deduction stated in a notice in accordance with section 67(2)(b), on the ground that the amount is erroneous.

181 Challenge to prohibition on applications or declarations

A borrower who is prohibited under section 69 from making an application under section 42 or a declaration under section 55 may challenge the prohibition on the ground that that decision is not fair and reasonable.

182 Challenge to assessments

A borrower whose repayment obligation has been assessed under section 51, 76, 89, or 109 may, on the ground that the assessment is erroneous or excessive or has been issued in error, challenge the assessment.

Compare: 1992 No 141 s 64

183 Challenge to interest charged

(1) A borrower who is charged with loan interest may, on the ground that he or she should not have been charged with the amount of interest charged, challenge that interest.

(2) A borrower who is charged with late payment interest may, on the ground that he or she should not have been charged with the amount of interest charged, challenge that interest.

(3) Except as set out in subsections (1) and (2), a right to challenge interest charged under this Act is not conferred by anything in—

(a) this Act; or

(b) Parts 4A and 8A of the Tax Administration Act 1994; or

(c) a loan contract.

Compare: 1992 No 141 ss 65, 65A(e), (f), 69B

184 Challenge to decision concerning relief

(1) A borrower may challenge a decision by the Commissioner, on the ground that the decision is not fair and reasonable, not to grant the borrower—

(a) relief from late payment interest under section 146:

(b) hardship relief under section 147:

(c) entry into an instalment arrangement under section 154.

(2) A borrower may challenge the relief provided to the borrower under section 146, 147, or 154 on the ground that the relief is not fair and reasonable.

Compare: 1992 No 141 s 66B

185 Challenge to late filing penalty

A borrower who is charged with a late filing penalty may challenge the penalty on the ground that it was imposed on the borrower in error.

Compare: 1992 No 141 s 66

186 Challenge to student loan shortfall penalty

A borrower who has a student loan shortfall penalty imposed on him or her may challenge the student loan shortfall penalty on the ground that it was imposed on the borrower in error.

Compare: 1992 No 141 s 68

187 Person who may make challenge

A challenge under this subpart may be made only by or on behalf of the person to whom the information, assessment, notice, decision, or matter relates.

Compare: 1992 No 141 s 69

188 Commissioner's decision on challenges

(1) After considering a challenge under this subpart, the Commissioner may—

(a) allow the challenge in full; or

(b) allow the challenge in part; or

(c) disallow the challenge.

(2) The Commissioner must formally notify the person who made the challenge as soon as practicable after the Commissioner has made a decision about the challenge.

(3) This section applies despite anything to the contrary in Part 8A of the Tax Administration Act 1994.

Part 5
Matters of general application and miscellaneous matters

Subpart 1—Matters of general application

189 Annual administration fee

(1) If a borrower has a consolidated loan balance of $20 or more on the close of 31 March in a tax year,—

(a) an annual administration fee of $40 (or any other amount prescribed by regulations) must be charged by the Commissioner to that borrower for that tax year; and

(b) that borrower's loan balance is increased by the amount of that fee on 1 April in the next tax year.

(2) However, no annual administration fee may be charged to a borrower for a tax year if that borrower is charged with a student loan establishment fee under section 14 in that tax year.

Section 189(1): amended (with effect on 1 April 2012), on 12 April 2012, by section 47 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

190 Tax year other than 12 months due to change in balance date

(1) This section applies if a borrower—

(a) derives pre-taxed income, other income, or both; and

(b) that income is for a period other than 12 months as a result of the borrower changing his or her balance date for the purposes of income tax.

(2) For the purposes of calculating the borrower's repayment obligations under subparts 2 and 3 of Part 2, the annual repayment threshold is calculated in accordance with the formula—

$$a = b \times \frac{c}{365}$$

where—

a is the annual repayment threshold calculated in accordance with this section:

b is the amount of the annual repayment threshold:

c is the number of days in the period.

Compare: 1992 No 141 s 61

191 Limit on repayment obligation for pay period or tax year

(1) If a borrower derives only salary or wages for a tax year, the borrower's repayment obligation for a pay period in that tax year must not exceed the amount of the borrower's loan balance on the last day of the month in which the pay period falls.

(2) If a borrower derives pre-taxed income or other income for a tax year, the borrower's pre-taxed repayment obligation or other income repayment obligation for that tax year must not exceed the amount of the borrower's loan balance on the last day of that tax year.

(3) Section 111(2) applies to overseas-based borrowers.

(4) This section applies despite anything to the contrary in this Act.

Compare: 1992 No 141 s 14(3)

192 Payment date not otherwise specified

If this Act does not specify a date by which an amount payable under this Act is payable, the amount is due and payable 30 days after the date on which the borrower is notified in writing that the amount is due and payable.

Compare: 1992 No 141 s 47

193 Recovery of unpaid amount

(1) An unpaid amount is recoverable as a debt due to the Crown.

(2) Sections 156 to 165 of the Tax Administration Act 1994, as far as they are applicable and with all necessary modifications, apply for the purposes of this Act, as if—

(a) every reference in those provisions to income tax or tax were a reference to an unpaid amount; and

(b) every reference in those provisions to a taxpayer or a person were a reference to a borrower; and

(c) the reference to an assessment in section 162 of the Tax Administration Act 1994 were a reference to an assessment made under Part 2 of this Act; and

(d) every reference to "this Act" in sections 164 and 165 of the Tax Administration Act 1994 were a reference to the Student Loan Scheme Act 2011.

Compare: 1992 No 141 s 46

193A Contact person may be requested to assist

(1) The Commissioner may at any time advise a person that the person has been nominated as the contact person of a borrower.

(2) If, in any case where a borrower has an unpaid amount, the Commissioner does not have the current address details for the borrower or is uncertain as to the accuracy of the address details for the borrower, the Commissioner may request the borrower's contact person—

(a) to notify the Commissioner of the borrower's current address details; or

(b) to ask the borrower to notify the Commissioner of the borrower's current address details.

(3) In subsection (2), **address details**, in relation to a borrower, means—

(a) all postal addresses for the borrower; and

(b) all electronic addresses for the borrower (if the borrower has any); and

(c) all telephone numbers for the borrower (if the borrower has any).

(4) The Commissioner may not make a request under subsection (2) unless the contact person confirms that he or she is willing to act as the borrower's contact person.

(5) The Commissioner—

(a) may not disclose any matters about the borrower other than those required to be disclosed for the purposes of this section; and

(b) may use any information obtained from a request under this section only for the purposes of this Act.

(6) In this section and section 193B, **contact person**, in relation to a borrower, means—

(a) an individual whose name has been notified under section 16A in relation to the borrower; or
(b) an individual nominated by the borrower under section 107A or 193B.

Section 193A: inserted (with effect on 1 April 2012), on 12 April 2012, by section 48 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

193B Changes relating to identity and details of contact person

(1) Whenever the contact person of a borrower dies or becomes incapacitated or is for any other reason ineligible, unable, or unwilling to act as the borrower's contact person, the borrower must nominate another contact person who resides in New Zealand in the manner provided by section 107A(2).

(2) If there is a change in any of the details of a borrower's contact person, the borrower must promptly notify the Commissioner of the changed details.

Section 193B: inserted (with effect on 1 April 2012), on 12 April 2012, by section 48 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

194 Order in which salary or wage deductions and payments offset against borrower's consolidated loan balance

A salary or wage deduction or payment received by the Commissioner in respect of a borrower's consolidated loan balance must be offset as follows:

(a) first, against any interest charged; and
(b) secondly, any remainder must be offset against any principal outstanding.

Compare: 1992 No 141 s 50

195 Date on which salary or wage deductions and payments treated as being made and credited

(1) A salary or wage deduction is made on the date the deduction is made.

(2) A payment is made to the Commissioner on the date it is received by the Commissioner.

(3) For the purposes of calculating late payment interest, determining whether an annual administration fee is payable, and determining whether a borrower's consolidated loan balance is less than $20 for the purposes of section 197,—

(a) a salary or wage deduction is credited on the 15th day of the month in which the deduction is made; and

(b) all other payments are credited on the date on which they are received by the Commissioner.

(3A) For the purpose of calculating loan interest,—

(a) a salary or wage deduction is credited on the 16th day of the month in which the deduction is made; and

(b) all other payments are credited on the day after the date on which they are received by the Commissioner.

(4) Other than for the purposes set out in subsection (3),—

(a) a salary or wage deduction is credited on the last day of the month in which the deduction is made; and

(b) a payment made by a New Zealand-based borrower (excluding a salary or wage deduction) for a tax year is credited at the time when the Commissioner assesses the borrower's pre-taxed repayment obligation or other income repayment obligation for that tax year; and

(c) a payment made by an overseas-based borrower (excluding a salary or wage deduction) is credited on the date it is received by the Commissioner.

Compare: 1992 No 141 ss 48, 49

Section 195(3): amended (with effect on 1 April 2012), on 12 April 2012, by section 49(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 195(3A): inserted (with effect on 1 April 2012), on 12 April 2012, by section 49(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

196 Cancellation of interest if consolidated loan balance repaid early

(1) Subsection (2) applies if—

(a) the Commissioner informs or notifies a borrower of the borrower's consolidated loan balance (the **notification**) on or before 31 March 2013; and

(b) the borrower pays the consolidated loan balance stated in the notification in full within 30 days after the date of the notification.

(2) The Commissioner must cancel any loan interest that is calculated and accrued between the date of the notification and the date on which the payment is received.

(3) A notification provided on or after 2 March 2012 under section 60A(1) of the Student Loan Scheme Act 1992 is treated as being a notification under subsection (1).

(4) This section is repealed on the close of 1 May 2013.

Compare: 1992 No 141 s 60A

Section 196(2): replaced (with effect on 1 April 2012), on 12 April 2012, by section 50 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

197 Write-off of consolidated loan balance

(1) A borrower's consolidated loan balance must be reduced to zero if—

(a) the borrower dies; or

(b) the Commissioner has reasonable grounds for believing that the borrower has died; or

(c) the borrower's consolidated loan balance is less than $20 on the last day of a tax year.

(2) Subsection (1)(a) has effect from the day on which the borrower died.

(3) Subsection (1)(b) has effect from the day on which the borrower is believed to have died.

(4) Subsection (1)(c) has effect from the close of the last day of the relevant tax year.

(5) If a borrower's consolidated loan balance is reduced to zero under subsection (1)(a) or (c), that action may not be reversed.

(6) Subsection (5) applies despite anything to the contrary.

Compare: 1992 No 141 s 60

198 Commissioner may remedy incorrect application of Act

(1) The Commissioner may take whatever steps are necessary to reflect the manner in which this Act should have been applied to a borrower if—

(a) this Act was incorrectly applied to the borrower; or

(b) a change in the borrower's circumstances requires a change in the manner in which this Act should have applied to the borrower.

(2) The power in subsection (1) includes the power to reverse an action that was taken in relation to a borrower and take other actions, or require other actions to be taken, in its place.

199 Manner of making refunds

A refund that is made under this Act must be made in the manner required under section 184A of the Tax Administration Act 1994.

Compare: 1992 No 141 ss 55A(3), 56(2B), 57(2A), 58A(3)

200 Appropriation of refunds

A refund that is made under this Act may be made without further appropriation than this section.

Compare: 1992 No 141 s 59

201 Loan advances and other information may be altered

The Commissioner must, as soon as practicable,—

(a) alter the details of a loan advance provided or made available to a borrower under section 19 in accordance with the decision of—
  (i) the loan manager under section 168; or
  (ii) the chief executive under section 170; or
  (iii) a Referee of a Disputes Tribunal or a District Court Judge, as applicable, under section 171; or

(b) alter any information (other than the details of a loan advance made or charged to the borrower) provided or made available to a borrower under section 19 in accordance with a decision of the Commissioner under subpart 5 of Part 4.

Compare: 1992 No 141 s 7(1)

202 Provisions of Tax Administration Act 1994 and Income Tax Act 2007 to apply to this Act

Sections 21, 24B, 24F, 24H, 33, 34, 35, 36 to 39, 42 to 44, 79, 80, 92, 92A, 106 to 108, 108B to 111, 113, and 114 of the Tax Administration Act 1994 and sections LC 10, RM 2, RM 4, and RM 6, and paragraph (b) of the definition of basic tax rate in section YA 1 of the Income Tax Act 2007 apply, as far as applicable and with all necessary modifications, for the purposes of this Act as if—

(a) every reference to a taxpayer or a person were a reference to a borrower; and

(b) every reference to the assessment and levy of income tax or tax were a reference to the assessment and levy of a repayment obligation; and

(c) every reference to income tax were a reference to a repayment obligation; and

(d) every reference to a return were a reference to, as applicable, a declaration of pre-taxed income or a notification of a borrower's annual gross income and annual total deductions under section 114.

Compare: 1992 No 141 s 16

Subpart 2—Miscellaneous matters

Interaction with loan contracts and other enactments

203 This Act overrides loan contracts

(1) This Act applies despite anything to the contrary in any loan contract.

(2) All loan contracts must be interpreted in a manner that is consistent with this Act.

(3) If a loan contract cannot be interpreted in a manner that is consistent with this Act, then this Act prevails over the terms of the loan contract.

Compare: 1992 No 141 s 63

204 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 part of a loan advance or a 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 203 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.

205 Loan contract enforceable against minor

A loan contract entered into by a borrower (whether before or after the commencement of this section) who is under 18 years of age must be treated, for the purposes of the Minors' Contracts Act 1969, as if the borrower were aged 18 years.

Compare: 1992 No 141 s 63A

206 Student loan contracts are not credit contracts

(1) A loan contract is not—

(a) a credit contract for the purposes of the Credit Contracts Act 1981:

(b) a credit contract or a consumer credit contract for the purposes of the Credit Contracts and Consumer Finance Act 2003.

(2) No cause of action exists under the Credit Contracts Act 1981 or the Credit Contracts and Consumer Finance Act 2003 in relation to a loan contract.

(3) This section applies—

(a) to all loan contracts regardless of when they were entered into; and

(b) despite anything to the contrary.

Disclosure of information

207 Disclosure of information between authorised persons

(1) No obligation as to secrecy or other restriction imposed by an enactment or otherwise on the disclosure of information prevents—

(a) an authorised person from disclosing to another authorised person information required for the purpose of enabling the Commissioner to confirm the identity of a person who applies for a student loan; or

(b) an authorised person from disclosing to another authorised person information required for the purpose of enabling the Commissioner to correctly identify a bor-

rower who has received or been charged with a loan advance; or

(c) the Commissioner from disclosing to the chief executive information that is necessary to investigate circumstances in which an authorised person considers—

(i) a student loan may have been improperly obtained; or

(ii) an attempt has been made to obtain a student loan by improper means.

(2) For the purposes of subsection (1)(c), the information that the Commissioner may disclose includes the following:

(a) particulars of loan repayments made:

(b) the consolidated loan balance:

(c) particulars the Commissioner may possess as to the location of a borrower:

(d) whether a person specified by the chief executive is a taxpayer:

(e) for an address specified by the chief executive, the number of borrowers recorded as resident at that address:

(f) any other particulars that the Commissioner considers relevant to the purposes of subsection (1)(c).

(3) Information obtained under subsection (1) must not be disclosed except to an authorised person and for the purposes of that subsection.

(4) Despite subsection (3), no obligation as to secrecy or other restriction imposed by an enactment or otherwise on the disclosure of information prevents the persons specified in paragraphs (a), (c), and (e) of the definition of authorised person in subsection (5) from receiving information disclosed by an authorised person to another authorised person in accordance with subsection (1) for any purpose that relates to the administration of the student loan scheme.

(5) In this section,—

authorised person means—

(a) the Commissioner or an officer of the Inland Revenue Department who is authorised by the Commissioner to disclose and receive information under this section; or

(b) an employee of a tertiary institution who is authorised by the chief executive to disclose and receive information under this section; or

(c) the chief executive, or an officer of the specified department who is authorised by the chief executive to disclose and receive information under this section; or

(d) the Secretary of Education, or an officer of the Ministry of Education who is authorised by the Secretary of Education to disclose and receive information under this section; or

(e) the loan manager, or an employee of the loan manager who is authorised by the chief executive to disclose and receive information under this section

specified department means the department that is, with the authority of the Prime Minister, for the time being responsible for the administration of the Social Security Act 1964.

Compare: 1992 No 141 s 62

208 Disclosure of information between Inland Revenue Department and New Zealand Customs Service for information-matching purposes

(1) The purpose of this section is to facilitate the exchange of information between the Inland Revenue Department and the New Zealand Customs Service for the purpose of establishing an information-matching programme to assist the Commissioner to verify—

(a) whether borrowers are New Zealand-based or overseas-based:

(b) whether borrowers are New Zealand residents for the purposes of this Act.

(2) For the purpose of this section, the Commissioner may provide to the chief executive of the New Zealand Customs Service any of the following information that is held by the Inland Revenue Department:

(a) a borrower's name or any other name by which a borrower is known:

(b) a borrower's date of birth:

(c) a borrower's tax file number.

(3) The Commissioner and the chief executive of the New Zealand Customs Service may, for the purpose of this section, determine by written agreement between them—
  (a) the frequency with which information may be supplied; and
  (b) the form in which information may be supplied; and
  (c) the method by which information may be supplied.

(4) Subsection (2) applies despite any obligation as to secrecy or other restriction imposed by any enactment or otherwise on the disclosure of information.
Compare: 1992 No 141 s 62A

209 Power of Commissioner to access arrival or departure information

In accordance with, and for the purpose set out in, section 280I of the Customs and Excise Act 1996, the Commissioner may access any information-recording system used by the New Zealand Customs Service to store arrival or departure information.
Compare: 1992 No 141 s 62B

Informing and notifying under this Act

210 Meaning of inform

(1) A requirement in this Act for a person to **inform** another person (**person B**) is satisfied—
  (a) by—
    (i) providing the information free of charge on an Internet site that allows person B to access the information at all reasonable times; and
    (ii) making the information available for inspection free of charge, and for purchase at a reasonable price, at each office of the Inland Revenue Department during the period from 8 am to 4.30 pm each working day; or
  (b) by giving public notice.

(2) Despite subsection (1)(b), public notice must not be given for the purposes of section 19.

211 Meaning of notify

(1) A requirement in this Act for a person to **notify** another person or for a matter to be notified is satisfied by a communication—

(a) that is printed, typewritten, or otherwise visibly represented, copied, or reproduced on paper and is given by personal delivery, post, or fax; or

(b) by telephone; or

(c) made orally in person in a manner acceptable to the Commissioner; or

(d) by an electronic means (except a fax), if the person complies with the Electronic Transactions Act 2002, including by email or the Internet; or

(e) in any other manner acceptable to the Commissioner.

(2) However, it does not include a communication on the Internet, or by other means, if the person for whom the communication is intended is not directly alerted to it in some manner.

(3) A notification that is given by post is treated as having been given at the time the notification would have been delivered in the ordinary course of the post.

(4) Despite subsection (1)(d) of this section, section 6 of the Tax Administration Act 1994, and sections 16 and 20 of the Electronic Transactions Act 2002, the consent of a person is not required in order for information to be communicated in an electronic form.

212 Meaning of notify a person in writing

(1) A requirement in this Act for a person to **notify a person in writing** or for a matter to be notified in writing is satisfied by a communication—

(a) that is printed, typewritten, or otherwise visibly represented, copied, or reproduced on paper and is given by personal delivery, post, or fax; or

(b) by an electronic means (except a fax), if the person complies with the Electronic Transactions Act 2002, including by email or the Internet; or

(c) in any other manner acceptable to the Commissioner.

(2) However, it does not include a communication on the Internet, or by other means, if the person for whom the communication is intended is not directly alerted to it in some manner.

(3) A notification in writing that is given by post is treated as having been given at the time the notification would have been delivered in the ordinary course of the post.

(4) Despite subsection (1)(b) of this section, section 6 of the Tax Administration Act 1994, and sections 16 and 20 of the Electronic Transactions Act 2002, the consent of a person is not required in order for information to be communicated in an electronic form.

213 Meaning of formally notify

(1) A requirement in this Act for a person to **formally notify** another person or for a matter to be formally notified is satisfied by a communication that—
- (a) is printed, typewritten, or otherwise visibly represented, copied, or reproduced on paper; and
- (b) is given by—
  - (i) personal delivery; or
  - (ii) post; or
  - (iii) fax.

(2) However, it does not include a communication by email, the Internet, or other electronic means (except a fax).

(3) A formal notification that is given by post is treated as having been given at the time the notification would have been delivered in the ordinary course of the post.

214 Notice requirements of Tax Administration Act 1994 do not apply

Sections 210 to 213 of this Act override sections 14 and 14B of the Tax Administration Act 1994.

Regulations

215 Regulations

The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
- (a) prescribing the amount of the annual repayment threshold, or a means by which it may be calculated or ascertained:

(b) specifying charitable organisations for the purposes of the definition of charity in section 4(1):

(c) prescribing the repayment percentage, or a means by which it may be calculated or ascertained:

(d) specifying further information requirements in accordance with section 10(2)(d), 13(i), or 16(2)(a)(viii):

(e) prescribing the amount of a student loan establishment fee charged under section 14, or a means by which it may be calculated or ascertained:

(f) prescribing the amount of a threshold or the amount of a repayment obligation that is to apply in place of those set out in section 110(2) to (4):

(g) prescribing the level of unpaid amount on which a borrower is liable to pay late payment interest under section 139(1), or a means by which it may be calculated or ascertained:

(h) prescribing the amount of an annual administration fee charged under section 189, or a means by which it may be calculated or ascertained:

(i) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

Compare: 1992 No 141 s 87

216 Transitional regulations

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations to—

(a) prescribe matters in respect of the transition of the student loan scheme from the Student Loan Scheme Act 1992 to this Act that may be in addition to or in place of the provisions of Schedules 5 and 6:

(b) make provision for a situation for which no or insufficient provision is made by or under this Act or any other Act referred to in this Act.

(2) The Minister must not recommend the making of regulations unless the Minister is satisfied that the regulations—

(a) are necessary or desirable for the orderly transition of the student loan scheme from the Student Loan Scheme Act 1992 to this Act; and

(b) are consistent with the purposes of this Act.

(3) On the close of 1 April 2015,—

(a) this section expires and is repealed; and

(b) any regulations made under this section that are in force expire and are revoked.

217 Application of Regulations (Disallowance) Act 1989 and Acts and Regulations Publication Act 1989

Regulations made under section 215 or 216 are regulations for the purposes of the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publication Act 1989.

Savings and transitional provisions

218 Transitional provisions concerning loan manager and loan advances

[Repealed]

Section 218: repealed, on 1 April 2012, by section 218(2).

219 Early applications and issue of certificates for transition to this Act

(1) A borrower may—

(a) make an application under section 42 or 145(1)(b); and

(b) if applicable, notify his or her employer in writing that a special deduction rate applies to the borrower; and

(c) request his or her employer or PAYE intermediary (in accordance with section 39) to make borrower deductions; and

(d) make a declaration in accordance with sections 54(2) and 55.

(2) The Commissioner may—

(a) issue a special deduction rate certificate under section 45 or 148; and

(b) issue an additional deduction rate notice under section 49(2); and

(c) if applicable, follow the procedures in section 50(1); and

(d) issue a notice under section 56(b).

(3) This Act applies, for the purpose of giving effect to this section, as if it were in force from 1 March 2012.

(4) However, a special deduction rate, an additional deduction rate notice, or a notice issued under section 56(b) that applies to a borrower under this section, or a request under subsection (1)(c), does not have effect until the later of—

(a) 1 April 2012; and

(b) any later date specified in the special deduction rate certificate, the additional deduction rate notice, the notice issued under section 56(b), or the request under subsection (1)(c).

Section 219(1)(a): amended (with effect on 1 April 2012), on 12 April 2012, by section 51(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 219(1)(b): amended (with effect on 1 April 2012), on 12 April 2012, by section 51(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Section 219(2)(a): amended (with effect on 1 April 2012), on 12 April 2012, by section 51(3) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

220 Savings and transitional provisions

This Act is subject to the savings and transitional provisions set out in Schedule 6.

Consequential amendments and repeals

221 Amendments to this Act

This Act is amended in the manner, and is subject to the transitional provisions, set out in Schedule 7.

Section 221: amended (with effect on 1 April 2012), on 12 April 2012, by section 52 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

222 Amendments to Student Loan Scheme Act 1992 and Credit Contracts and Consumer Finance Act 2003

The Acts specified in Schedule 8 are amended in the manner set out in that schedule.

223 Amendments to other Acts

The Acts specified in Schedule 9 are amended in the manner set out in that schedule.

224 Amendments to other enactments

The enactments specified in Schedule 10 are amended in the manner set out in that schedule.

225 Student Loan Scheme Act 1992 repealed

The Student Loan Scheme Act 1992 (1992 No 141) is repealed.

226 Regulations revoked

(1) The Credit Contracts and Consumer Finance (Student Loan Contract Exemption) Regulations 2010 (SR 2010/341) are revoked.

(2) The Student Loan Scheme (Charitable Organisations) Regulations 2006 (SR 2006/68) are revoked.

(3) The Student Loan Scheme (Repayment Threshold) Regulations 2008 (SR 2008/450) are revoked.

Schedule 1

ss 25, 26(b)

Conditions to borrower being treated as being physically in New Zealand

1 Definition

In this schedule, **NZQA** means the New Zealand Qualifications Authority established under Part 20 of the Education Act 1989.

Compare: 1992 No 141 ss 38AJ(4), 38AJA(6)

2 Conditions to charity application

(1) A borrower who makes an application under section 25(1)(b) must provide the Commissioner with evidence that the work the borrower is doing as a volunteer or for token payment for a charity is 1 or more of the following:

(a) work to relieve poverty, hunger, sickness, or the ravages of war or natural disaster; or

(b) work to improve the economy of a country that is on the Organisation for Economic Co-operation and Development's list of countries receiving development assistance; or

(c) work to raise the educational standards of a country that is on the Organisation for Economic Co-operation and Development's list of countries receiving development assistance.

(2) The charity must be specified in regulations at the time the work described in clause 1 is carried out.

(3) The Commissioner may treat a borrower as being physically in New Zealand under section 25(1)(b) for a maximum aggregate period of up to 24 months.

Compare: 1992 No 141 ss 38AE(3)(a), 38AEA

3 Conditions to unexpected delay application

A borrower who makes an application under section 25(1)(c) must—

(a) have been a New Zealand resident for the period to which the application applies; and

(b) provide evidence—

(i) of the borrower's intended return to New Zealand; and
(ii) that, if the borrower had returned to New Zealand as intended, the borrower would have been New Zealand-based; and

(c) provide evidence of the unexpected delay that resulted in the borrower not being able to return to New Zealand as intended; and

(d) provide evidence that the unexpected delay was due to an event or to circumstances beyond the reasonable control of the borrower, like (for example)—
(i) an airline strike, a personal illness, or the death of a family member:
(ii) a fire, flood, storm, earthquake, landslide, volcanic eruption, or other act of God:
(iii) an explosion or nuclear, biological, or chemical contamination:
(iv) sabotage, terrorism, or an act of war (whether declared or not).

Compare: 1992 No 141 s 38AF

4 Conditions to unplanned personal absence application

A borrower who makes an application under section 25(1)(d) must—

(a) have been a New Zealand resident for the period to which the application applies; and

(b) provide evidence of the duration of the borrower's unplanned personal absence from New Zealand; and

(c) provide evidence that the borrower's unplanned personal absence was due to an event or to circumstances beyond the reasonable planning and control of the borrower, like (for example)—
(i) the illness or death of a family member who is overseas:
(ii) the borrower's employer requiring the borrower to attend a conference overseas.

Compare: 1992 No 141 s 38AG

5 Conditions to employment or occupation absence application

A borrower who makes an application under section 25(1)(e) must—

(a) be a New Zealand resident for the period to which the application applies; and

(b) have a permanent place of abode only in New Zealand; and

(c) provide evidence that the borrower derives either—

(i) a PAYE income payment as defined in section RD 3(1) of the Income Tax Act 2007, having a source in New Zealand; or

(ii) income from a business that has a permanent establishment in New Zealand; and

(d) provide evidence that the majority of the borrower's personal absences from New Zealand are because of the borrower's employment or occupation.

Compare: 1992 No 141 s 38AH

6 Conditions to marriage, civil union, or de facto application

(1) A borrower who makes an application under section 25(1)(f) must—

(a) be a New Zealand resident for the period to which the application applies; and

(b) provide evidence of the borrower's relationship with his or her spouse, civil union partner, or de facto partner (**partner**); and

(c) provide evidence that the borrower's personal absence from New Zealand is because the borrower is accompanying his or her partner overseas; and

(d) provide evidence that the borrower's partner—

(i) is physically absent from New Zealand in the service in any capacity of the Government of New Zealand; or

(ii) satisfies the conditions in clause 2, 5, 7, 8, or 9.

(2) The Commissioner may treat a borrower whose partner satisfies the conditions in clause 2 (working as a volunteer or for token payment for a charity) as being physically in New Zealand

under section 25(1)(f) for a maximum aggregate period of up to 24 months.

Compare: 1992 No 141 ss 38AE(3)(b), 38AI

7 Condition to study at postgraduate or undergraduate level overseas application

(1) A borrower who makes an application under section 25(1)(g) must—

(a) be undertaking study at postgraduate or undergraduate level; and

(b) provide the Commissioner with the following:

(i) evidence from the NZQA verifying that the borrower's course is study at postgraduate or undergraduate level; and

(ii) evidence from the borrower's overseas education provider verifying that the borrower is enrolled full-time in the course verified by the NZQA.

(2) In this clause, **study at postgraduate or undergraduate level** means study that is assessed by the NZQA as being equivalent to level 7, 8, 9, or 10 on the New Zealand Register of Quality Assured Qualifications developed by the NZQA under section 253(1)(c) of the Education Act 1989.

Compare: 1992 No 141 s 38AJ(2), (4)

8 Condition to full-time overseas study under formal exchange programme or formal agreement application

(1) A borrower who makes an application under section 25(1)(h) must—

(a) be undertaking study that—

(i) the borrower is enrolled in with a New Zealand tertiary education provider; and

(ii) if it is completed successfully, will count towards a qualification offered by a New Zealand tertiary education provider; and

(iii) is assessed by the NZQA as being equivalent to level 7 or above on the New Zealand Register of Quality Assured Qualifications developed by the NZQA under section 253(1)(c) of the Education Act 1989; and

(iv) is full-time and undertaken overseas as part of either—

(A) a formal exchange programme approved by the New Zealand Government; or

(B) a formal agreement between a New Zealand tertiary education provider and an overseas tertiary provider; and

(b) provide the Commissioner with evidence from the borrower's New Zealand tertiary education provider verifying that the borrower's study meets the requirements of paragraph (a).

(2) In this clause, **overseas tertiary provider** means an institution or organisation that—

(a) provides tertiary education or training; and

(b) is based in a country other than New Zealand; and

(c) is registered by an appropriate education authority in that country.

Compare: 1992 No 141 s 38AJA(2), (4), (6)

9 Condition to full-time overseas study application

A borrower who makes an application under section 25(1)(i) must—

(a) be undertaking study that—

(i) the borrower is enrolled in with a New Zealand tertiary education provider; and

(ii) if it is completed successfully, will count towards a qualification offered by a New Zealand tertiary education provider; and

(iii) is assessed by the NZQA as being equivalent to level 8 or above on the New Zealand Register of Quality Assured Qualifications developed by the NZQA under section 253(1)(c) of the Education Act 1989; and

(iv) is full-time and undertaken overseas; and

(v) cannot be completed in New Zealand; and

(b) provide the Commissioner with evidence from the borrower's New Zealand tertiary education provider veri-

fying that the borrower's study meets the requirements of paragraph (a).

Compare: 1992 No 141 s 38AJA(3), (4)

10 Conditions to Niue, Cook Islands, Tokelau, and Ross Dependency application

A borrower who makes an application under section 25(1)(j) must—

(a) provide the Commissioner with evidence that he or she is physically in 1 or more of New Zealand, Niue, the Cook Islands, Tokelau, or the Ross Dependency for the period to which the application applies; and

(b) pay his or her repayment obligation in full when, or before, it falls due during the period he or she is treated as being physically in New Zealand.

Compare: 1992 No 141 s 38AIA

11 Certain exempt borrowers must notify Commissioner of their worldwide income

(1) This clause applies to a borrower who is treated as being physically in New Zealand under any of paragraphs (b), (g), (h), (i), and (j) of section 25(1).

(2) The borrower must notify the Commissioner of the borrower's annual gross income and annual total deductions in accordance with section 114(2), and sections 114(3) and (4) and 114A apply accordingly.

Schedule 1 clause 11: inserted (with effect on 1 April 2012), on 12 April 2012, by section 53 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Schedule 2

s 70

Application of PAYE rules for purposes of section 70

PAYE rules apply to salary or wage deductions

1 The PAYE rules apply for the purposes of section 70, as far as applicable and with all necessary modifications, as if—

(a) every reference to income tax or tax were a reference to a salary or wage deduction; and

(b) every reference to an amount of tax for a PAYE income payment that is withheld and paid to the Commissioner were a reference to a salary or wage deduction; and

(c) every reference to a taxpayer or a person were a reference to a borrower; and

(d) every reference to a tax code were a reference to, as applicable, the repayment codes "SL", "STC", "SLCIR", or "SLBOR"; and

(e) every reference to basic tax rates were a reference to the repayment percentage.

Schedule 2 clause 1 paragraph (d): replaced (with effect on 1 April 2012), on 12 April 2012, by section 54 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

2 However,—

(a) the following do not apply to salary or wage deductions:

(i) sections BC 1, LA 6, RC 2(1), RC 6, RC 7, RC 16, RC 17, RD 8 to RD 10, RD 13B, RD 17(2) and (3), and RD 18 to RD 20 of the Income Tax Act 2007:

(ii) sections 24K to 24M and 24O of the Tax Administration Act 1994; and

(b) a salary or wage deduction must not be treated as part of, or included in, an amount of tax for a PAYE income payment that is withheld and paid to the Commissioner under the PAYE rules.

Compare: 1992 No 141 s 25

Schedule 3

s 86

Application of provisional tax rules for purposes of section 86

Interim payments for pre-taxed income to be paid in same manner as provisional tax

1 The provisional tax rules apply for the purposes of section 86, as far as applicable and with all necessary modifications, as if—

(a) every reference to provisional tax were a reference to the amount of interim payments payable by a borrower; and

(b) every reference to a person, a person liable to pay provisional tax, or a provisional taxpayer were a reference to a borrower; and

(c) every reference to residual income tax were a reference to the amount of the pre-taxed repayment obligation; and

(d) every reference to income tax were a reference to a pre-taxed repayment obligation; and

(e) every reference to an instalment were a reference to an interim payment; and

(f) every reference to a return of income were a reference to a declaration of pre-taxed income; and

(g) every reference to $2,500 or less (being the threshold below which a person is not required to make provisional tax payments during the year) were a reference to the $1,000 threshold in section 79; and

(h) every reference to section RC 10 or to an amount calculated under section RC 10 were a reference to section 82 of this Act or to the amount of a borrower's interim payments calculated in accordance with section 82 of this Act; and

(i) the reference in section RC 9(9) of the Income Tax Act 2007 to interest calculated under section 120KC of the Tax Administration Act 1994 were a reference to late payment interest calculated under section 139 of this Act.

2 However,—

(a) sections LB 2, RC 3, RC 4, RC 5(6) and (8), RC 7(6), RC 8, RC 11, RC 15 to RC 19, RC 24, RC 28 to RC 35, RC 37 to RC 39, RZ 3, and RZ 5B of the Income Tax Act 2007, and the definition of early-payment discount in section RC 40 of that Act do not apply to an interim payment; and

(b) section RC 5(2) of the Income Tax Act 2007—

(i) applies only if the borrower's pre-taxed repayment obligation for the second preceding tax year is $1,000 or more; and

(ii) applies as if the calculation in that section were a reference to the calculation in section 82 of this Act; and

(c) section RC 5(3) of the Income Tax Act 2007—

(i) applies only if the borrower's pre-taxed repayment obligation for the second preceding tax year is $1,000 or more; and

(ii) for a declaration of pre-taxed income for the immediately preceding tax year, or an estimate of the pre-taxed repayment obligation, that is not filed by the due date for payment of the final interim payment, applies as if the borrower has filed a statement showing an estimate of the pre-taxed repayment obligation for that tax year equal to the total amount of interim payments paid by the borrower on or before that date.

Compare: 1992 No 141 s 28

Schedule 4

s 99

Application of provisional tax rules for purposes of section 99

Interim payments for other income to be paid in same manner as provisional tax

1 The provisional tax rules apply for the purposes of section 99, as far as applicable and with all necessary modifications, as if—

(a) every reference to provisional tax were a reference to the amount of interim payments payable by a borrower; and

(b) every reference to a person, a person liable to pay provisional tax, or a provisional taxpayer were a reference to a borrower; and

(c) every reference to residual income tax were a reference to the amount of the other income repayment obligation; and

(d) every reference to income tax were a reference to an other income repayment obligation; and

(e) every reference to an instalment were a reference to an interim payment; and

(f) every reference to section RC 10 or to an amount calculated under section RC 10 were a reference to section 95 of this Act or to the amount of a borrower's interim payments calculated in accordance with section 95 of this Act; and

(g) the reference in section RC 9(9) of the Income Tax Act 2007 to interest calculated under section 120KC of the Tax Administration Act 1994 were a reference to late payment interest calculated under section 139 of this Act.

2 However,—

(a) sections LB 2, RC 3, RC 4, RC 5(6) and (8), RC 7(6), RC 8, RC 11, RC 15 to RC 19, RC 24, RC 28 to RC 35, RC 37 to RC 39, RZ 3, and RZ 5B of the Income Tax Act 2007, and the definition of early-payment discount

in section RC 40 of that Act, do not apply to an interim payment; and

(b) section RC 5(2) of the Income Tax Act 2007—

(i) applies only if the borrower's other income repayment obligation for the second preceding tax year is $1,000 or more; and

(ii) applies as if the calculation in that section were a reference to the calculation in section 95 of this Act.

Compare: 1992 No 141 s 28

Schedule 5

s 218

Transitional provisions concerning loan manager and loan advances

[Repealed]

Schedule 5: repealed, on 1 April 2012, by section 218(2).

Schedule 5 clause 2: repealed (with effect on 1 January 2012), on 12 April 2012, by section 55 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Schedule 6

s 220

Savings and transitional provisions

Savings provisions

1 Schedule applies despite repeal of Student Loan Scheme Act 1992 and anything to contrary

The provisions of this schedule apply despite—

(a) sections 225 and 226(2) and (3):

(b) anything to the contrary in this Act.

2 Student Loan Scheme Act 1992 applies to tax years prior to 1 April 2012

(1) The Student Loan Scheme Act 1992 (and all relevant regulations made under that Act) continues in full effect to the extent necessary for the proper administration and completion of all matters under that Act relating to the tax year ending on 31 March 2012 and all earlier tax years.

(2) All obligations or requirements in relation to a matter under the Student Loan Scheme Act 1992 relating to the tax year ending on 31 March 2012 or an earlier tax year continue to apply, even if that obligation or requirement arises on or after 1 April 2012.

(3) Any action that is taken in relation to a matter under the Student Loan Scheme Act 1992 relating to the tax year ending on 31 March 2012 or an earlier tax year must be taken under the Student Loan Scheme Act 1992, even if that action is taken on or after 1 April 2012.

Transitional provisions

3 Commissioner may request information from loan manager

(1) The loan manager must provide the Commissioner with any information held by the loan manager about a borrower or a loan advance—

(a) that the loan manager would have to notify the Commissioner of under sections 10, 16, and 17 if those sections applied to the borrower or the loan advance; and

(b) if the Commissioner requests that information.

(2) A request under subclause (1) may relate to particular borrowers or loan advances, or to a class (however defined) of borrowers or loan advances.

4 Commissioner may write-off certain interest

(1) Subclause (2) applies to any interest imposed in relation to a borrower under the Student Loan Scheme Act 1992 before the borrower's loan balance is transferred to the Commissioner for collection in accordance with section 4 of that Act.

(2) The Commissioner may, at his or her discretion, write-off the interest.

5 Transition of loan balances from Student Loan Scheme Act 1992 to this Act

(1) Subclause (2) applies to any amount (**specified amount A**) that—

(a) must be paid or repaid in accordance with the Student Loan Scheme Act 1992 on or before 31 March 2012; and

(b) has not been paid or repaid on or before the close of 31 March 2012; and

(c) has not been decreased, reduced, or written off by the Commissioner.

(2) On 1 April 2012, specified amount A must be treated as being part of a borrower's unpaid amount for the purposes of this Act.

(3) Subclause (4) applies to any amount (**specified amount B**) that,—

(a) in accordance with this schedule, must be paid or repaid in accordance with the Student Loan Scheme Act 1992 on or after 1 April 2012; and

(b) is not paid or repaid on or before its due date; and

(c) is not decreased, reduced, or written off by the Commissioner.

(4) At the time when this Act applies to it, specified amount B must be treated as being part of a borrower's unpaid amount for the purposes of this Act.

(5) At the time when this Act applies to it, any amount owed by a borrower under the Student Loan Scheme Act 1992 to which neither subclause (2) nor (4) applies must be treated as being part of a borrower's loan balance for the purposes of this Act.

6 Small amounts of unpaid and uncollected repayment obligations

(1) The following are added to a borrower's loan balance under this Act:

(a) any amount that the Commissioner has refrained from collecting from a borrower in accordance with section 51(3) of the Student Loan Scheme Act 1992 and that remains unpaid on the close of 31 March 2012; and

(b) a default amount that is not subject to a penalty under section 52 of the Student Loan Scheme Act 1992 or late payment interest under section 139(1) of this Act and that remains unpaid on the close of 31 March 2013.

(2) This clause overrides clause 5.

Schedule 6 clause 6(1)(b): amended (with effect on 1 April 2012), on 12 April 2012, by section 56(1) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Schedule 6 clause 6(1)(b): amended (with effect on 1 April 2012), on 12 April 2012, by section 56(2) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

7 New Zealand-based and overseas-based borrowers

(1) Every borrower who, on the close of 31 March 2012, is New Zealand-based under the Student Loan Scheme Act 1992 is treated as being New Zealand-based under this Act on 1 April 2012.

(2) Every borrower who, on the close of 31 March 2012, is overseas based under the Student Loan Scheme Act 1992 is treated as being overseas-based under this Act on 1 April 2012.

(3) Every day on which a borrower is personally present in New Zealand under the Student Loan Scheme Act 1992 is treated as a day on which the borrower is physically in New Zealand for the purposes of sections 22 and 24 of this Act.

(4) Every day on which a borrower is personally absent from New Zealand under the Student Loan Scheme Act 1992 is treated

as a day on which the borrower is physically absent from New Zealand for the purposes of section 23 of this Act.

8 Exemptions to the 183-day rule continue

(1) This clause applies if—

(a) the Commissioner has granted an exemption to the 183-day requirement to a borrower under section 38AE, 38AJ, or 38AJA of the Student Loan Scheme Act 1992 before 1 April 2012; and

(b) the end date for the period of that exemption continues past 1 April 2012, or the conditions for the continuation of that exemption continue to apply or to be met on the close of 31 March 2012.

(2) The exemption continues until, as applicable,—

(a) the end date for the period of that exemption specified by the Commissioner; or

(b) the conditions for the continuation of that exemption cease to apply or to be met.

(3) The borrower is treated as being physically in New Zealand for the purposes of sections 22 to 24 for the period that the exemption continues.

9 Overseas-based borrowers' repayment holidays

[Repealed]

Schedule 6 clause 9: repealed (with effect on 1 April 2012), on 12 April 2012, by section 56(3) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

10 Deduction rates and deduction rate certificates

(1) If, at the close of 31 March 2012, a borrower has employment for which the repayment code "SL" applies to the borrower under section 18 of the Student Loan Scheme Act 1992, that repayment code continues to apply to that borrower in relation to that employment for the purposes of section 34 of this Act.

(2) A borrower who, at the close of 31 March 2012, has complied with section 18 of the Student Loan Scheme Act 1992 in relation to an employer does not have to comply with section 35 of this Act in relation to that employer.

(3) An increased repayment deduction rate notice that has been issued under section 20A of the Student Loan Scheme Act 1992 and that continues to apply at the close of 31 March 2012—
  (a) continues to apply until the earlier of the date on which—
    (i) the deductions made from the borrower's salary or wages in accordance with the notice equal the amount specified in the notice in accordance with section 20A(2)(b) of the Student Loan Scheme Act 1992; or
    (ii) the Commissioner notifies the relevant employer otherwise; and
  (b) must be treated as if it were an additional deduction rate notice that has been issued by the Commissioner under section 49(2) of this Act.

(4) A special repayment deduction rate certificate that has been issued under section 21 of the Student Loan Scheme Act 1992 and that continues to apply at the close of 31 March 2012—
  (a) continues to apply; and
  (b) must be treated as if it were, as applicable in the circumstances,—
    (i) a request by the borrower to make borrower deductions in accordance with section 39 of this Act; or
    (ii) a special deduction rate certificate issued in relation to the borrower under—
      (A) section 45 of this Act (special deduction rate certificate for unused repayment threshold); or
      (B) *[Repealed]*
      (C) section 148 of this Act (special deduction rate certificate for hardship relief).

Schedule 6 clause 10(4)(b)(ii)(B): repealed (with effect on 1 April 2012), on 12 April 2012, by section 56(3) of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

11 Pay period that spans 1 April 2012

If an employer or PAYE intermediary pays an amount to a borrower by way of salary or wages for a pay period that starts before, and ends after, 1 April 2012,—

(a) the employer or PAYE intermediary must make a deduction from that amount for the entire pay period in accordance with section 36(2) of this Act; and

(b) section 19 of the Student Loan Scheme Act 1992 does not apply to the employer or PAYE intermediary in relation to the pay period.

12 Instalment arrangements

(1) This clause applies if—

(a) a borrower has entered into an instalment arrangement with the Commissioner on or before 31 March 2012 in relation to an amount (the **instalment amount**) that must be paid under the Student Loan Scheme Act 1992; and

(b) some of the payments that are required under the instalment arrangement must be paid on or after 1 April 2012.

(2) If all of the payments that are required under the instalment arrangement are paid on or before their due date,—

(a) all late payment penalties that apply to the instalment amount under the Student Loan Scheme Act 1992 must be written off by the Commissioner; and

(b) all late payment interest that applies to the instalment amount under this Act must be written off by the Commissioner.

(3) If any of the payments that are required under the instalment arrangement are not paid on or before their due date, the following applies:

(a) unpaid instalment amounts with a due date before 1 April 2012 are subject to the late payment penalties that apply to that amount under the Student Loan Scheme Act 1992 until the close of 31 March 2012; and

(b) unpaid instalment amounts with a due date before 1 April 2012 that remain unpaid on or after that date are subject to late payment interest under this Act from 31 March 2012; and

(c) unpaid instalment amounts with a due date on or after 1 April 2012 are subject to late payment interest under this Act.

13 No refunds for deductions or payments made before 1 April 2006

(1) No refund may be made under this Act or the Student Loan Scheme Act 1992 for any amount that was deducted or paid in excess (as set out in section 56(1)(a) to (e) or 57(1) of the Student Loan Scheme Act 1992) before 1 April 2006.

(2) Subclause (1) applies despite anything to the contrary.

14 Matters from Student Loan Scheme Act 1992 to be used in this Act when required

(1) This clause applies if—
- (a) this Act requires something to be done (a **new Act requirement**); and
- (b) the new Act requirement cannot be done without reference to an equivalent thing in, that arises from, or that was required to be done by the Student Loan Scheme Act 1992 (a **1992 Act requirement**).

(2) The new Act requirement must utilise the 1992 Act requirement—
- (a) as if it were the thing that was required by, or referred to in, the new Act requirement; and
- (b) with all necessary modifications; and
- (c) despite any difference in terminology between this Act and the Student Loan Scheme Act 1992.

(3) For example, the other income payments that are due for the 2012–13 tax year under this Act must be determined—
- (a) by reference to residual repayment obligations for the 2011–12 tax year under the Student Loan Scheme Act 1992; and
- (b) as if references to other income repayment obligations in this Act were references to residual repayment obligations for the 2011–12 tax year under the Student Loan Scheme Act 1992.

15 Updated references

Unless the context otherwise requires, all references in an enactment or document (including a loan contract) to—
- (a) the Student Loan Scheme Act 1992 must be read as a reference to this Act; and

(b) the student loan scheme under the Student Loan Scheme Act 1992 must be read as a reference to the student loan scheme under this Act; and

(c) a student loan under the Student Loan Scheme Act 1992 must be read as a reference to a student loan under this Act; and

(d) a borrower under the Student Loan Scheme Act 1992 must be read as a reference to a borrower under this Act.

Schedule 7

s 221

Amendments to this Act

1 New section 5 substituted

Section 5 is repealed and the following section substituted:

"**5 Meaning of unpaid amount**

"(1) In this Act, **unpaid amount**, in relation to a borrower, means the aggregate amount of so much of each of the following as has not been paid on or before the due date and has not been decreased, reduced, or written off by the Commissioner:

"(a) a remaining repayment:

"(b) an interim payment:

"(c) an overseas-based repayment obligation:

"(d) a consolidated loan balance that is payable as a result of a demand made under a loan contract:

"(e) any part of a loan advance or a loan balance that the Commissioner has recalled or demanded repayment of under section 204 of this Act or section 63N of the Student Loan Scheme Act 1992:

"(f) an amount that must be paid by a borrower in accordance with a written notification under section 52:

"(g) a late filing penalty:

"(h) a student loan shortfall penalty:

"(i) late payment interest that has been added to a borrower's unpaid amount under section 141(2).

"(2) However, an interim payment is an unpaid amount to the extent only that the interim payment (determined at the end of the tax year) that should have been payable on its due date exceeds the payment that was paid on or before that date.

"(3) In determining an unpaid amount,—

"(a) remaining repayments calculated under sections 80(4) and 93(4) for the tax year replace the interim payments that were payable for that year; and

"(b) those remaining repayments must be treated as having been unpaid from the day after the due date of the interim payments; and

"(c) the interim payments must be disregarded."

2 Overseas-based borrower's standard and Commissioner deductions satisfy overseas-based repayment obligation

Section 117(3) is amended by omitting "section 194" and substituting "sections 194 to 194D".

3 Heading and new sections 134 to 137 substituted

The heading above section 134 and sections 134 to 138 are repealed and the following heading and sections substituted:

"*Loan interest charged for borrowers who are overseas-based*

"**134 Loan interest charged for borrowers who are overseas-based**

"(1) A borrower is liable to pay loan interest on his or her loan balance for each day that the borrower is overseas-based.

"(2) Loan interest must be calculated in accordance with the formula—

$$a = \frac{(b \times c)}{365}$$

where—

a is the loan interest

b is the borrower's loan balance on the relevant day

c is the base interest rate.

"**135 Loan interest calculated daily and charged and compounded monthly**

"(1) Loan interest is calculated each day that a borrower is overseas-based and has a loan balance.

"(2) Loan interest is charged and added to the borrower's loan balance on the last day of each month.

"(3) However, no interest is charged or added under subsection (2) for a month if the loan balance is paid in full on or before the last day of that month.

"**136 Notification that loan interest has compounded**

If loan interest is added to a borrower's loan balance in accordance with section 135(2), the Commissioner must, at least

once in the following 12 months, notify the borrower in writing of—

"(a) the opening and closing dates of the period covered by the notification; and

"(b) the borrower's loan balance on the opening and closing dates; and

"(c) the date and amount of all loan interest charged to the borrower during the period covered by the notification.

"Compare: 1992 No 141 s 43(1)

"**137 Loan interest written off for quick repayment of consolidated loan balance**

"(1) This section applies to a person who—

"(a) was an overseas-based borrower; and

"(b) would subsequently have been treated as being New Zealand-based except that he or she ceased to be a borrower because of paragraph (c); and

"(c) fully repaid his or her consolidated loan balance before the end of the period of 183 consecutive days under which the borrower would have been treated as being New Zealand-based.

"(2) Loan interest that is charged on the person's loan balance is reduced to zero for the period—

"(a) starting on the first day of the 183-day period; and

"(b) ending on the day on which the person's consolidated loan balance was fully repaid.

"Compare: 1992 No 141 s 38AM".

4 Heading and new sections 139 to 141B substituted

The heading above section 139 and sections 139 to 141 are repealed and the following heading and sections substituted:

"*Late payment interest*

"**139 Late payment interest charged on unpaid amount**

"(1) A borrower is liable to pay late payment interest on his or her unpaid amount if that unpaid amount is $500 or more (or any other level prescribed by regulations).

"(2) Late payment interest must be calculated in accordance with the formula—

$$a = \frac{(b \times c)}{365}$$

where—

a is the late payment interest

b is the unpaid amount

c is the base interest rate plus 4%.

"Compare: 1992 No 141 s 44

"**140 Late payment interest reduced if instalment arrangement complied with**

"(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 borrower has entered into an instalment arrangement in relation to the unpaid amount in accordance with section 154.

"(2) For each month that the borrower meets his or her obligations under the instalment arrangement, any late payment interest that the borrower is liable to pay on the unpaid amount for that month must be calculated as if item c in the formula in section 139(2) is the base interest rate plus 2%.

"(3) However, subsection (2) applies only to the days in a month during which an instalment arrangement applies.

"**141 Late payment interest calculated daily and charged and compounded monthly**

"(1) Late payment interest is calculated each day after the due date of an unpaid amount until the unpaid amount is paid in full.

"(2) Late payment interest is charged and added to a borrower's unpaid amount on the last day of each month.

"(3) However, no interest is charged or added under subsection (2) for a month if the unpaid amount is paid in full on or before the last day of that month.

"141A Initial notification that late payment interest is payable

"(1) The Commissioner must, as soon as practicable after a borrower becomes liable to pay late payment interest, notify that borrower in writing.

"(2) The notification must specify—

"(a) the unpaid amount; and

"(b) that the borrower is liable to pay late payment interest on the unpaid amount in accordance with this subpart; and

"(c) the amount of late payment interest (if any) that has been added to the unpaid amount under section 141(2) as at the date of the notification; and

"(d) the date on which late payment interest will next be added to the unpaid amount under section 141(2).

"Compare: 1992 No 141 ss 43(1), 45

"141B Ongoing notification requirements regarding late payment interest

"(1) The Commissioner must, as soon as practicable after late payment interest is added to a borrower's unpaid amount under section 141(2), notify the borrower in writing—

"(a) of the unpaid amount on which the late payment interest has been charged; and

"(b) that the borrower has been charged with late payment interest on that unpaid amount; and

"(c) of the amount of that interest; and

"(d) that the unpaid amount has been increased by the amount of that interest; and

"(e) of the new total of the borrower's unpaid amount; and

"(f) that the new total of the borrower's unpaid amount is itself subject to late payment interest; and

"(g) of the date on which late payment interest will next be added to the borrower's unpaid amount under section 141(2).

"(2) The Commissioner may notify the borrower in writing of the borrower's unpaid amount and late payment interest at any other time the Commissioner chooses.

"Compare: 1992 No 141 ss 43(1), 45".

5 Power of Commissioner in relation to small amounts

Section 144 is amended by repealing subsection (2) and substituting the following subsection:

"(2) The Commissioner may refrain from collecting payment of an unpaid amount if that unpaid amount is less than $500."

6 New section 146 substituted

Section 146 is repealed and the following section substituted:

"**146 Commissioner may grant relief from late payment interest**

"(1) Subsection (2) applies—

"(a) if a borrower has been charged with late payment interest; and

"(b) regardless of whether that late payment interest has been paid, either in whole or in part; and

"(c) if an application is made under section 145(1)(a) for relief from late payment interest.

"(2) The Commissioner may, having regard to the circumstances of the case and if the Commissioner considers it equitable to do so, grant relief to the borrower by cancelling as much of the late payment interest as the Commissioner considers equitable.

"(3) If late payment interest is cancelled,—

"(a) the borrower's consolidated loan balance is decreased by the amount of the cancelled late payment interest; and

"(b) if the late payment interest has been added to the borrower's unpaid amount under section 141(2), the borrower's unpaid amount is decreased by the amount of the cancelled late payment interest; and

"(c) any payment made in excess of the remaining amount of late payment interest payable (if any) by the borrower (an **excess payment**) must be offset against the borrower's consolidated loan balance as follows:

"(i) first, against any unpaid amount; and

"(ii) secondly, against the loan balance; and

"(d) the Commissioner must refund any remaining excess payment to the borrower (*see* sections 199 and 200).

"Compare: 1992 No 141 s 53".

7 New sections 194 to 194D substituted

Section 194 is repealed and the following sections are substituted:

"**194 Definition used in sections 194A to 194D**

In sections 194A to 194D, **current year obligations** means each of the following that has a due date in or for the tax year in which the payment was received by the Commissioner:

"(a) an amount that must be paid by a borrower in accordance with a written notification under section 52:

"(b) a remaining repayment:

"(c) an interim payment:

"(d) an instalment of an overseas-based borrower's repayment obligation for a tax year that must be paid in accordance with section 112 or 115(1)(d):

"(e) a late filing penalty:

"(f) a student loan shortfall penalty.

"**194A Order in which salary or wage deduction offset against borrower's consolidated loan balance**

"(1) A standard deduction received by the Commissioner in respect of a borrower must be offset against the borrower's loan balance.

"(2) A Commissioner deduction for the purposes set out in section 49(1)(a) received by the Commissioner in respect of a borrower must be offset against the borrower's loan balance.

"(3) A Commissioner deduction for the purposes set out in section 49(1)(b) received by the Commissioner in respect of a borrower must be offset as follows:

"(a) first, against any unpaid amount the borrower has; and

"(b) secondly, any remainder must be offset against the borrower's current year obligations; and

"(c) thirdly, any remainder must be offset against the borrower's loan balance.

"(4) A borrower deduction received by the Commissioner in respect of a borrower must be offset as follows:

"(a) first, against any unpaid amount the borrower has; and

"(b) secondly, any remainder must be offset against the borrower's current year obligations; and

"(c) thirdly, any remainder must be offset against the borrower's loan balance.

"Compare: 1992 No 141 s 50

"**194B Order in which payments offset against borrower's consolidated loan balance**

A payment received by the Commissioner in respect of a borrower's consolidated loan balance must be offset as follows:

"(a) first, against any unpaid amount the borrower has; and

"(b) secondly, any remainder must be offset against the borrower's current year obligations; and

"(c) thirdly, any remainder must be offset against the borrower's loan balance.

"Compare: 1992 No 141 s 50

"**194C Exception to sections 194A and 194B if instalment arrangement entered into**

"(1) This section applies to borrower deductions or payments that—

"(a) are made by, or on behalf of, a borrower who has entered into an instalment arrangement in accordance with section 154; but

"(b) are not made for the borrower to meet his or her obligations under the instalment arrangement.

"(2) The borrower deductions and payments must be offset as follows:

"(a) first, against the borrower's current year obligations; and

"(b) secondly, any remainder must be offset against any unpaid amount the borrower has; and

"(c) thirdly, any remainder must be offset against the borrower's loan balance.

"(3) This section overrides sections 194A and 194B.

"**194D Manner in which salary or wage deductions and payments are offset**

"(1) A salary or wage deduction or payment that is offset against an unpaid amount must be credited to the borrower's unpaid amount.

"(2) A salary or wage deduction or payment that is offset against current year obligations must—

"(a) be offset against each of the borrower's current year obligations in the order in which those obligations become due, from the earliest to the latest; and

"(b) if a remaining repayment and an interim payment are due on the same date, be offset against the remaining repayment before being offset against the interim payment; and

"(c) be credited to the borrower's loan balance.

"(3) A salary or wage deduction or payment that is offset against a loan balance must be credited to the borrower's loan balance.

"Compare: 1992 No 141 s 50".

8 New section 197 substituted

Section 197 is repealed and the following section substituted:

"**197 Write-off of consolidated loan balance**

"(1) A borrower's consolidated loan balance must be reduced to zero if—

"(a) the borrower dies; or

"(b) the Commissioner has reasonable grounds for believing that the borrower has died.

"(2) The Commissioner may reduce a borrower's consolidated loan balance to zero if that balance is less than $20.

"(3) Subsection (1)(a) has effect from the day on which the borrower died.

"(4) Subsection (1)(b) has effect from the day on which the borrower is believed to have died.

"(5) Subsection (2) has effect from the day on which the Commissioner exercises his or her discretion to reduce the consolidated loan balance to zero.

"(6) If a borrower's consolidated loan balance is reduced to zero under subsection (1)(a) or (2), that action may not be reversed.

"(7) Subsection (6) applies despite anything to the contrary.

"Compare: 1992 No 141 s 60".

9 Section 219 repealed

Section 219 is repealed.

Schedule 8

s 222

Amendments to Student Loan Scheme Act 1992 and Credit Contracts and Consumer Finance Act 2003

Student Loan Scheme Act 1992 (1992 No 141)

Section 45F(2): repeal and substitute:

"(2) If a borrower's loan balance will not be fully repaid as a result of being reduced by a 10% bonus, that bonus must be credited to the borrower's loan balance with effect from—

"(a) 1 April in the tax year that follows the tax year for which the excess repayments were made; or

"(b) any other date that the Commissioner considers appropriate if the borrower dies or is declared bankrupt."

Heading to section 57B: omit "**1 April 2004**" and substitute "**31 March 2006**".

Section 57B: omit "1 April 2004" and substitute "31 March 2006".

New sections 63B to 63N: insert after section 63A:

"**63B Initial disclosure**

The loan manager must provide a borrower with a copy of the borrower's student loan contract before the day that is 6 working days after the day on which the contract is entered into.

"Compare: SR 2010/341 r 5

"**63C Certain information must be disclosed in loan contract**

"(1) Every loan contract entered into on or after the date on which this section comes into force must specify the following information that applies at the date the loan contract is entered into:

"(a) the repayment threshold:

"(b) the total interest rate:

"(c) the repayment percentage:

"(d) the amount of any student loan establishment fee:

"(e) the amount of the annual administration fee charged under section 63L:

"(f) any other matters specified in regulations.

Student Loan Scheme Act 1992 (1992 No 141)—*continued*

"(2) The Commissioner must inform borrowers in accordance with section 63D if any of the information specified in accordance with subsection (1) changes.

"**63D Method of informing borrowers**

For the purposes of section 63C(2), the Commissioner must inform a borrower—

"(a) by—

"(i) providing the information free of charge on an Internet site that allows the borrower to access the information at all reasonable times; and

"(ii) making the information available for inspection free of charge, and for purchase at a reasonable price, at each office of the Inland Revenue Department during the period from 8 am to 4.30 pm each working day; or

"(b) by giving public notice.

"**63E Continuing disclosure of information**

"(1) The loan manager or the Commissioner must disclose the information set out in section 63F to the borrower under a student loan contract.

"(2) The information must—

"(a) be disclosed at least once in each 6-month period following the day on which the contract is entered into; and

"(b) relate to the previous 6-month period.

"Compare: SR 2010/341 r 6

"**63F Content of information disclosed**

Each disclosure of information in accordance with section 63E must contain as much of the following information as is applicable to the borrower or the student loan contract:

"(a) the opening and closing dates of the period covered by the disclosure; and

"(b) the loan balance on the opening and closing dates; and

Student Loan Scheme Act 1992 (1992 No 141)—*continued*

"(c) the date and amount, and a description, of each amount advanced to the borrower under the contract during the period covered by the disclosure; and

"(d) the date and amount of any interest charged to the borrower during the period covered by the disclosure; and

"(e) the total interest rate that applies during the period covered by the disclosure; and

"(f) the date and amount, and a description, of each fee charged to the borrower during the period covered by the disclosure; and

"(g) the date and amount, and a description, of each penalty charged to the borrower during the period covered by the disclosure.

"Compare: SR 2010/341 r 7

"63G Disclosure of changes to obligations under student loan contract

"(1) Subsection (2) applies if—

"(a) a change is made to a borrower's obligations under a student loan contract; and

"(b) that change increases the borrower's obligations under that contract in a more than minor way, including a change to—

"(i) the borrower's repayment obligations; or

"(ii) the repayment percentage; or

"(iii) the total interest rate; and

"(c) that change is made—

"(i) without the borrower's prior agreement; or

"(ii) by, or as a consequence of, an enactment.

"(2) Details of the change must be disclosed to the borrower within 7 months after the day on which the change is made.

"Compare: SR 2010/341 r 8

"63H Direct disclosure of information and changes

"(1) Disclosure under sections 63E to 63G must be made—

Student Loan Scheme Act 1992 (1992 No 141)—*continued*

"(a) by means of information that is printed, typewritten, or otherwise visibly represented, copied, or reproduced on paper and is given by personal delivery, post, or fax; or

"(b) by an electronic means (except a fax), if the person making the disclosure complies with the Electronic Transactions Act 2002, including by email or the Internet (if the borrower for whom the disclosure is intended is directly alerted to it in some manner).

"(2) Despite subsection (1)(b) of this section and section 16 of the Electronic Transactions Act 2002, the consent of a borrower is not required in order for disclosure to be made in an electronic form.

"(3) However, subsection (1) does not apply if the loan manager or the Commissioner, as applicable, cannot reasonably locate the borrower.

"Compare: SR 2010/341 r 9

"**63I Public disclosure of changes**

Disclosure under section 63G must also be made—

"(a) by providing the information free of charge on an Internet site that allows a borrower to access the information at all reasonable times; and

"(b) by giving public notice that the information is available on that Internet site.

"Compare: SR 2010/341 r 10

"**63J Satisfaction of requirements to disclose**

If disclosure is made in accordance with sections 63E to 63H, the requirements to disclose under those sections are satisfied regardless of whether the borrower receives the information that was disclosed.

"Compare: SR 2010/341 r 11

Student Loan Scheme Act 1992 (1992 No 141)—*continued*

"**63K Cap on student loan establishment fees**

A student loan establishment fee charged by the loan manager to a borrower under a student loan contract must not exceed $60.

"Compare: SR 2010/341 r 12

"**63L Annual administration fee**

"(1) If a borrower has a loan balance of $20 or more on the close of 31 March 2012,—

"(a) an annual administration fee of $40 must be charged by the Commissioner to that borrower for the 1 April 2011 to 31 March 2012 tax year; and

"(b) that borrower's loan balance is increased on 1 April 2012 by the amount of that fee.

"(2) However, no fee may be charged under subsection (1) to a borrower if that borrower is charged with a student loan establishment fee during the period starting on 1 April 2011 and ending on 31 March 2012.

"**63M Student loan contracts are not credit contracts**

"(1) A loan contract is not—

"(a) a credit contract for the purposes of the Credit Contracts Act 1981:

"(b) a credit contract or a consumer credit contract for the purposes of the Credit Contracts and Consumer Finance Act 2003.

"(2) No cause of action exists under the Credit Contracts Act 1981 or the Credit Contracts and Consumer Finance Act 2003 in relation to a loan contract.

"(3) This section applies—

"(a) to all loan contracts regardless of when they were entered into; and

"(b) despite anything to the contrary.

Student Loan Scheme Act 1992 (1992 No 141)—*continued*

"**63N 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 part of a 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 63 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."

Section 87(1): insert after paragraph (bb):

"(bc) specifying further information requirements in accordance with section 63C(1)(f):".

Credit Contracts and Consumer Finance Act 2003 (2003 No 52)

Section 15(1): insert after paragraph (c):

"(ca) a loan contract (as defined in section 2(1) of the Student Loan Scheme Act 1992):".

Schedule 9

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Amendments to other Acts

Accident Compensation Act 2001 (2001 No 49)

Section 123(2)(i): repeal and substitute:

"(i) subparts 1 to 3 and 5 of Part 2 or section 193 of the Student Loan Scheme Act 2011; or".

Companies Act 1993 (1993 No 105)

Clause 1(2)(d) of Schedule 7: omit "section 25 of the Student Loan Scheme Act 1992" and substitute "section 70 of the Student Loan Scheme Act 2011".

Corrections Act 2004 (2004 No 50)

Definition of **student loan** in section 180C(2): omit "section 2 of the Student Loan Scheme Act 1992" and substitute "section 4(1) of the Student Loan Scheme Act 2011".

Credit Contracts and Consumer Finance Act 2003 (2003 No 52)

Section 15(1)(ca): omit "section 2(1) of the Student Loan Scheme Act 1992" and substitute "section 4(1) of the Student Loan Scheme Act 2011".

Customs and Excise Act 1996 (1996 No 27)

Definition of **borrower** in section 280G: omit "section 2 of the Student Loan Scheme Act 1992" and substitute "section 4(1) of the Student Loan Scheme Act 2011".

Definition of **identifying information** in section 280G: omit "section 62A(2) of the Student Loan Scheme Act 1992" and substitute "section 208(2) of the Student Loan Scheme Act 2011".

Heading to section 280H: omit "**Student Loan Scheme Act 1992**" and substitute "**Student Loan Scheme Act 2011**".

Section 280H(1)(a) to (c): repeal and substitute:

"(a) whether borrowers are New Zealand-based or overseas-based for the purposes of the Student Loan Scheme Act 2011:

"(b) whether borrowers are New Zealand residents for the purposes of that Act."

Customs and Excise Act 1996 (1996 No 27)—*continued*

Heading to section 280I: omit "**Student Loan Scheme Act 1992**" and substitute "**Student Loan Scheme Act 2011**".

Section 280I(1)(a) to (d): repeal and substitute:

"(a) whether borrowers are New Zealand-based or overseas-based for the purposes of the Student Loan Scheme Act 2011:

"(b) whether borrowers are New Zealand residents for the purposes of that Act:

"(c) for the purposes of that Act, whether borrowers are in New Zealand."

District Courts Act 1947 (1947 No 16)

Section 84I(2)(c)(iiia): omit "section 46 of the Student Loan Scheme Act 1992" and substitute "section 193 of the Student Loan Scheme Act 2011".

Education Act 1989 (1989 No 80)

Definition of **student loan** and **student loan scheme** in section 226A(1): repeal and substitute:

"**student loan** has the same meaning as in section 4(1) of the Student Loan Scheme Act 2011

"**student loan scheme** has the same meaning as in section 4(1) of the Student Loan Scheme Act 2011".

Definition of **student loan** and **student loan scheme** in section 238B(1): repeal and substitute:

"**student loan** has the same meaning as in section 4(1) of the Student Loan Scheme Act 2011

"**student loan scheme** has the same meaning as in section 4(1) of the Student Loan Scheme Act 2011".

Definition of **student loan** in section 302: repeal and substitute:

"**student loan** has the same meaning as in section 4(1) of the Student Loan Scheme Act 2011".

Definition of **student loan information** in section 302: omit "Student Loan Scheme Act 1992" and substitute "Student Loan Scheme Act 2011".

Education Act 1989 (1989 No 80)—*continued*

Section 307AC(2): omit "section 2A of the Student Loan Scheme Act 1992, the Student Loan Scheme Act 1992" and substitute "section 7 of the Student Loan Scheme Act 2011, the Student Loan Scheme Act 2011".

Electoral Act 1993 (1993 No 87)

Section 263B(4)(a)(iii): omit "section 2 of the Student Loan Scheme Act 1992" and substitute "section 4(1) of the Student Loan Scheme Act 2011".

Income Tax Act 2007 (2007 No 97)

Section MB 13(2)(g): omit "Student Loan Scheme Act 1992" and substitute "Student Loan Scheme Act 2011".

Section MK 2(1)(d)(ii): repeal and substitute:

> "(ii) work overseas as a volunteer or for token payment for a charitable organisation named in regulations made under the Student Loan Scheme Act 2011 and the work meets 1 or more of the requirements in clause 2(1) of Schedule 1 of that Act."

Section RH 3(2)(b)(i): omit "Student Loan Scheme Act 1992" and substitute "Student Loan Scheme Act 2011".

Paragraph (f) of the definition of **employer monthly schedule** in section YA 1: omit "and student loan deductions made" and substitute "deductions made, and salary or wage deductions made under the Student Loan Scheme Act 2011".

Paragraph (f) of the definition of **PAYE income payment form** in section YA 1: omit "student loan payments" and substitute "salary or wage deductions made under the Student Loan Scheme Act 2011".

Insolvency Act 2006 (2006 No 55)

Definition of **student loan balance** in section 3: repeal and substitute:

> "**student loan balance** means a consolidated loan balance, as that term is defined in section 4(1) of the Student Loan Scheme Act 2011".

Insolvency Act 2006 (2006 No 55)—*continued*

Section 274(2)(d): omit "section 25 of the Student Loan Scheme Act 1992" and substitute "section 70 of the Student Loan Scheme Act 2011".

Judicature Act 1908 (1908 No 89)

Rule 17.35(1)(d) of Schedule 2: omit "section 46 of the Student Loan Scheme Act 1992" and substitute "section 193 of the Student Loan Scheme Act 2011".

KiwiSaver Act 2006 (2006 No 40)

Section 98(3)(c): repeal and substitute:

"(c) the total salary or wage deductions made under the Student Loan Scheme Act 2011; and".

Prisoners' and Victims' Claims Act 2005 (2005 No 74)

Section 17(5): omit "Student Loan Scheme Act 1992" and substitute "Student Loan Scheme Act 2011".

Section 19(3): omit "Student Loan Scheme Act 1992" and substitute "Student Loan Scheme Act 2011".

Privacy Act 1993 (1993 No 28)

Item relating to the Student Loan Scheme Act 1992 in Schedule 3: omit and substitute:

Student Loan Scheme Act 2011	Section 208

Social Security Act 1964 (1964 No 136)

Section 84(1): omit "Student Loan Scheme Act 1992" and substitute "Student Loan Scheme Act 2011".

Tax Administration Act 1994 (1994 No 166)

Paragraph (a)(iii)(D) of the definition of **tax** in section 3(1): repeal and substitute:

"(D) a salary or wage deduction (as defined in section 4(1) of the Student Loan Scheme Act 2011), or an amount recovered in accordance with section 193 of that Act:".

Tax Administration Act 1994 (1994 No 166)—*continued*

Paragraph (a)(x) of the definition of **tax** in section 3(1): repeal and substitute:

"(x) a pre-taxed repayment obligation, an other income repayment obligation, or an overseas-based repayment obligation (as those terms are defined in section 4(1) of the Student Loan Scheme Act 2011):".

Paragraph (c) of the definition of **tax** in section 3(1): repeal and substitute:

"(c) for the purposes of sections 6, 6A, and 6B, includes—

"(i) revenue collected under, entitlements arising from, or amounts paid or payable under the Inland Revenue Acts; and

"(ii) loan interest charged on a loan balance (as those terms are defined in section 4(1) of the Student Loan Scheme Act 2011); and

"(iii) contributions administered by the Commissioner under the KiwiSaver Act 2006:".

Paragraph (ca)(ii) of the definition of **tax** in section 3(1): omit "section 2 of the Student Loan Scheme Act 1992" and substitute "section 4(1) of the Student Loan Scheme Act 2011".

Paragraph (d)(iii)(D) of the definition of **tax** in section 3(1): repeal and substitute:

"(D) a salary or wage deduction (as defined in section 4(1) of the Student Loan Scheme Act 2011) or an amount recovered in accordance with section 193 of that Act:".

Paragraph (d)(ix) of the definition of **tax** in section 3(1): repeal and substitute:

"(ix) a pre-taxed repayment obligation, an other income repayment obligation, or an overseas-based repayment obligation (as those terms are defined in section 4(1) of the Student Loan Scheme Act 2011)".

Tax Administration Act 1994 (1994 No 166)—*continued*

Section 4A(3)(c): repeal and substitute:

"(c) salary or wage deductions under the Student Loan Scheme Act 2011,—".

Section 33A(1)(b)(ii): repeal.

Section 33A(1)(b)(viii): repeal.

Section 33A(1)(g): repeal.

Section 46(5B): omit "or student loan deductions made" and substitute "deductions made, or salary or wage deductions made under the Student Loan Scheme Act 2011".

Section 81(4)(g) and (gb): repeal and substitute:

"(g) communicating to an authorised person under section 207 of the Student Loan Scheme Act 2011 any information specified in subsection (1) or (2) of that section in accordance with subsection (1) of that section:

"(gb) communicating to the chief executive of the New Zealand Customs Service under section 208 of the Student Loan Scheme Act 2011 any information specified in subsection (2) of that section for the purpose set out in subsection (1) of that section:

"(gba) communicating to a contact person (within the meaning of section 193A of the Student Loan Scheme Act 2011), for the purposes of a request under that section, any information required to be communicated by that section:".

Section 81(7): omit "Student Loan Scheme Act 1992" and substitute "Student Loan Scheme Act 2011".

Section 120B(c): omit "Student Loan Scheme Act 1992" and substitute "Student Loan Scheme Act 2011".

Section 138S(1)(a): omit "Student Loan Scheme Act 1992" in each place where it appears and substitute in each case "Student Loan Scheme Act 2011".

Section 143A(5): insert after paragraph (d):

"(e) a salary or wage deduction made under the Student Loan Scheme Act 2011:".

Tax Administration Act 1994 (1994 No 166)—*continued*

Section 143B: insert after subsection (2):

"(3) In this section, **tax** includes a repayment obligation as defined in section 4(1) of the Student Loan Scheme Act 2011."

Section 149(5): repeal and substitute:

"(5) If a shortfall penalty, other than under section 141ED, has been imposed on a taxpayer for taking an incorrect tax position, the Commissioner may not subsequently prosecute the taxpayer—

"(a) under this Act for taking the incorrect tax position; or

"(b) under the Student Loan Scheme Act 2011 for taking the incorrect tax position; or

"(c) in relation to an obligation arising under the Student Loan Scheme Act 2011 for taking the incorrect tax position."

Section 157A(1)(a)(iv): repeal and substitute:

"(iv) section 193 of the Student Loan Scheme Act 2011; or".

Section 184A(5)(f): repeal and substitute:

"(f) a repayment obligation, as defined in section 4(1) of the Student Loan Scheme Act 2011, if the borrower has chosen to receive a refund under section 132 of that Act."

Item relating to the Student Loan Scheme Act 1992 in the Schedule: omit and substitute: "Student Loan Scheme Act 2011".

Schedule 9: amended (with effect on 1 April 2012), on 12 April 2012, by section 58 of the Student Loan Scheme Amendment Act 2012 (2012 No 32).

Schedule 10

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Amendments to other enactments

District Courts Rules 2009 (SR 2009/257)

Note 2(b) of form 67 in Schedule 1: omit "Student Loan Scheme Act 1992" and substitute "Student Loan Scheme Act 2011".

Education (Early Childhood Services) Regulations 2008 (SR 2008/204)

Regulation 7(c): omit "student loan within the meaning of section 2(1) of the Student Loan Scheme Act 1992" and substitute "student loan, as defined in section 4(1) of the Student Loan Scheme Act 2011".

Regulation 8(c): omit "student loan within the meaning of section 2(1) of the Student Loan Scheme Act 1992" and substitute "student loan, as defined in section 4(1) of the Student Loan Scheme Act 2011".

Inland Revenue Department (Drafting) Order 1995 (SR 1995/286)

Clause 2(2)(a): omit "Student Loan Scheme Act 1992" and substitute "Student Loan Scheme Act 2011".

Sentencing (Orders of Reparation) Order 2006 (SR 2006/263)

Item relating to the Student Loan Scheme Act 1992 in the Schedule: omit "**Student Loan Scheme Act 1992 (1992 No 141)**" and substitute "**Student Loan Scheme Act 2011 (2011 No 62)**".

Item relating to the Student Loan Scheme Act 1992 in the Schedule: omit "Section 81(4)" and substitute "Section 163(3)".

Student Allowances Regulations 1998 (SR 1998/277)

Paragraph (c)(vii) of the definition of **personal income** in regulation 2(1): omit "within the meaning of section 2 of the Student Loan Scheme Act 1992" and substitute "as defined in section 4(1) of the Student Loan Scheme Act 2011".

Paragraph (c)(v) of the definition of **spousal or partner's income** in regulation 2(1): omit "within the meaning of section 2 of the Student

Student Allowances Regulations 1998 (SR 1998/277)—*continued*

Loan Scheme Act 1992" and substitute "as defined in section 4(1) of the Student Loan Scheme Act 2011".

Student Loan Scheme Amendment Act 2012

Public Act	2012 No 32
Date of assent	11 April 2012
Commencement	see section 2

1 Title

This Act is the Student Loan Scheme Amendment Act 2012.

2 Commencement

(1) Sections 7 and 59(2) come into force on 1 January 2013.

(2) Section 55 is deemed to have come into force on 1 January 2012.

(3) Section 57 comes into force on 1 April 2013 except that if a clause in Schedule 7 is, under section 2(5) of the principal Act, brought into force on a later date, any provision in section 57 that relates to that clause comes into force on that later date.

(4) The rest of the Act is deemed to have come into force on 1 April 2012.

Part 1
Amendments to principal Act

3 Principal Act amended

This Act amends the Student Loan Scheme Act 2011.

4 Purposes of Act

The purposes of this Act are—

(a) to assess the repayment obligations of borrowers by—

(i) disregarding any business or investment losses; and

(ii) treating salaries and wages separately from investment and business income:

(b) to provide for repayment holidays to be granted by the Commissioner and to limit their term to 365 days:

(c) to require borrowers who apply for repayment holidays to have contact persons who may be requested to assist the Commissioner in locating borrowers:

(d) to make miscellaneous amendments to the principal Act.

Part 2
Transitional provision

59 Transitional provision

(1) Until the close of 31 December 2012, the definition of **contact person** in section 193A(6) of the principal Act must be read without reference to paragraph (a) of that definition.

(2) This section is repealed on 1 January 2013.

Contents

1 General
2 Status of reprints
3 How reprints are prepared
4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
5 List of amendments incorporated in this reprint (most recent first)

Notes

1 General

This is a reprint of the Student Loan Scheme Act 2011. The reprint incorporates all the amendments to the Act as at 12 April 2012, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* http://www.pco.parliament.govt.nz/reprints/.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see* http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

Student Loan Scheme Amendment Act 2012 (2012 No 32)
Student Loan Scheme Act 2011 (2011 No 62): section 218(2)

Wellington, New Zealand:
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