

# **Student Loan Scheme Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The Bill gives effect to reforms announced in the Budget 2011 to improve the value of the Student Loan Scheme and encourage personal responsibility for the loan.

The Bill amends the Student Loan Scheme Act 2011 to—

- maximise repayments from New Zealand-based borrowers by excluding losses from the calculation of income for student loan repayment purposes; and
- ensure lending is good value by allowing Inland Revenue to receive details of a contact person from the loan manager. Inland Revenue can then use those details to assist in contacting a borrower who is in default and cannot be otherwise contacted by Inland Revenue; and
- improve repayments from overseas-based borrowers by shortening the repayment holiday from 3 years to 1 and require borrowers to apply for a repayment holiday. As part of the application process, borrowers must supply details of an alternative contact person who resides in New Zealand, before the borrower goes overseas, or before the expiry of 6 months from the date of departure.

As a consequence of the policy to exclude losses from the calculation of income, the Bill also includes amendments to extend the pay-period assessment policy to the salary and wage earnings of all borrowers. The pay-period assessment policy removes the need for the annual square up assessment for borrowers' salary and wage earnings.

### **Regulatory impact statement**

The Inland Revenue Department produced a regulatory impact statement on 26 July 2011, and the Ministry of Education produced a regulatory impact statement on 29 March 2011, to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact statements can be found at—

- <http://taxpolicy.ird.govt.nz/publications/type/ris>
- <http://www.minedu.govt.nz/RISStudentLoansBudget2011>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. *Clause 7*, which relates to notification of the Commissioner of Inland Revenue (the **Commissioner**) by the loan manager of a borrower's contact person, and *clause 34(2)*, which is part of a related transitional provision, come into force on 1 January 2013. Consequential amendments to section 219 of the principal Act, which provides for the early application of certain provisions, and amendments to the Student Loan Scheme Act 1992 come into force on the day after the Bill receives the Royal assent. The rest of the Bill comes into force on 1 April 2012.

## **Part 1**

### **Amendments to principal Act**

*Clause 3* states that the Bill amends the principal Act.

*Clause 4* sets out the purposes of the Bill.

*Clause 5* amends section 4 of the principal Act, which defines terms used in the Act. The clause includes references to the new definitions

of net pre-taxed income and adjusted net income, which are defined in later provisions of the Bill.

*Clause 6* makes technical amendments to section 13 of the principal Act, which prescribes certain information to be disclosed in loan contracts.

*Clause 7* inserts a *new section 16A*, which requires the loan manager to notify the Commissioner of any contact person provided by the borrower.

*Clause 8* amends section 42 of the principal Act, which provides for reduced deductions from secondary employment earnings where a borrower has not reached the repayment threshold. The existing section excludes borrowers with income from a business from receiving reduced deductions. The amendment removes that exclusion.

*Clause 9* amends section 46 of the principal Act to remove a reference to a section that is repealed by *clause 16*.

*Clause 10* amends section 51 of the principal Act, which authorises the Commissioner to make special assessments in certain cases where there have been significant under-deductions. The existing section does not apply to borrowers with income from a business. The amendment extends the section to such borrowers.

*Clause 11* amends section 54 of the principal Act, which provides for exemptions from standard deductions for certain borrowers whose annual gross income from salary or wages and investment income is expected to be below the repayment threshold. Under the existing section, borrowers with income from a business do not qualify for an exemption. The amendment removes that disqualification.

*Clause 12* amends section 67, which sets out the procedure to be followed if there are significant over-deductions made in respect of a student loan. The amendment provides that, in cases where there are significant under-deductions as well as significant over-deductions, the Commissioner may offset an over-deduction against an under-deduction before refunding the over-deduction.

*Clause 13* replaces section 73 of the principal Act with a new section that provides a new definition of net pre-taxed income. Income within the definition is calculated without reference to losses from investments. The effect is to stop investment losses from being used to reduce the repayment obligations of borrowers.

*Clause 14* inserts a *new section 88A* into the principal Act to define adjusted net income. The definition excludes income from salary or wages and requires losses from business or investments to be disregarded. The effect is to stop business or investment losses from being used to reduce the repayment obligations of borrowers.

*Clause 15* repeals sections 90 and 91 of the principal Act, which relate to the repayment obligation of a borrower with income derived from business. *New sections 90* and *91* set out the repayment obligation of such a borrower in similar terms to existing sections 77 and 78 and contribute to the extension of the pay-period assessment policy under which student loan deductions from salary or wages are treated as final. This is achieved by separating business and investment income from salary or wage earnings and by preventing the borrower from offsetting losses.

*Clause 16* repeals sections 101 to 104 of the principal Act, which enable borrowers who derive income from business activities as well as salary or wages to obtain reduced deductions from their salary or wages to reflect anticipated lower repayment obligations due to business losses.

*Clause 17* replaces sections 106 to 108 of the principal Act, which relate to repayment holidays. The new sections make 2 significant changes. First, instead of being automatically entitled to a repayment holiday, an overseas-based borrower will receive a repayment holiday only if the Commissioner grants it on the borrower's application. Secondly, the length of repayment holidays is reduced from 3 years to 365 days. Borrowers who, as at 1 April 2012, are on repayment holidays will not need to apply for their repayment holidays to continue and those repayment holidays will be limited to 365 days or, if the remaining balance of a repayment holiday is less than 365 days, to that lesser balance. Borrowers who have previously been on repayment holidays under the Student Loan Scheme Act 1992, but are currently not on a repayment holiday, will similarly be limited to 365 days or any lesser balance of their previous repayment holidays. Applicants for repayment holidays are required to give the Commissioner the name and details of a contact person who resides in New Zealand and is willing to act in that capacity.

*Clauses 18 to 20* make amendments that are consequential on the changes to repayment holidays made by *clause 17*.

*Clause 21* makes a consequential amendment that is required by the repeal of section 125 of the principal Act by *clause 23*.

*Clause 22* repeals section 119(2)(a)(ii) of the principal Act, which requires the Commissioner, in determining whether an excess repayment has been made, to disregard deductions from salary or wages unless, among other instances, the repayment is made by a New Zealand-based borrower who derives income from business activities. The effect of the repeal is to remove that exception.

*Clause 23* repeals section 125 of the principal Act, which entitles borrowers with income derived from business activities and salary or wages to a reduction of the borrower's loan balance equal to 10% of an excess repayment that would have been made but for an under-deduction.

*Clause 24* makes a consequential amendment that is required by the repeal of section 125 of the principal Act by *clause 23*.

*Clause 25* amends section 146 of the principal Act, which authorises the Commissioner to grant relief from late payment interest. The amendment requires the Commissioner to offset any late payment interest already paid against any unpaid amount and the borrower's current year obligations; any remainder can be applied to reduce the loan balance or be refunded to the borrower, if the borrower opts for a refund.

*Clause 26* omits a reference to a section that has been repealed by *clause 16*.

*Clause 27* amends section 155(3) of the principal Act, which relates to late filing penalties. The amounts of the penalties currently depend on the amount of the borrower's net income. The amendment changes the reference to net income to adjusted net income or net pre-taxed income.

*Clause 28* amends section 189 of the principal Act, which requires certain borrowers to pay an annual administration fee. In terms of the existing section, the fee is payable by borrowers with a loan balance of \$20 or more. The amendment changes the reference of loan balance to consolidated loan balance so that unpaid amounts are taken into account.

*Clause 29* inserts *new section 193A* to authorise the Commissioner to request a borrower's contact person to assist where the borrower is in default and cannot be located. The Commissioner may request the

contact person to provide the borrower's address details or to ask the borrower to do so. Before that request is made, the contact person has to confirm that he or she is willing to act in that capacity. Contact person is defined as the person notified by the loan manager or the person nominated by an applicant for a repayment holiday.

*Clause 30* amends section 219 of the principal Act to remove references to sections repealed by *clause 16*.

*Clause 31* amends Schedule 6 of the principal Act, which sets out savings and transitional provisions. The clause makes consequential amendments required by *clauses 16 and 17*.

*Clause 32* makes technical amendments to section 146, as substituted by clause 6 of Schedule 7 of the principal Act. The version of section 146 (which relates to relief from late payment interest) set out in Schedule 7 is to come into force on 1 April 2013 or on an earlier date appointed by Order in Council.

*Clause 33* amends Schedule 9 of the principal Act to make a consequential amendment to the Tax Administration Act 1994 to clarify that communications to contact persons may be made in accordance with *new section 193A* as inserted by *clause 29*.

## **Part 2**

### **Transitional provision and related amendments to Student Loan Scheme Act 1992**

*Clause 34* is a transitional provision that provides that, until 31 December 2012, the definition of contact person in *new section 193A* (as inserted by *clause 29*) does not include contact persons notified by loan managers because the relevant change made by *clause 7* only comes into force on 1 January 2013.

*Clause 35* amends section 57B of the Student Loan Act 1992 (as amended by Schedule 8 of the principal Act), which precludes the refund of excess deductions made before 31 March 2006. The amendment changes that date to 1 April 2006. The clause also makes a technical amendment to section 63L (as inserted by Schedule 8 of the principal Act), which relates to the annual administration fee charged to borrowers.

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*Hon Peter Dunne*

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**Part 2**

**Transitional provision and related amendments to  
Student Loan Scheme Act 1992**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Student Loan Scheme Amendment Act **2011**.

**2 Commencement**

- (1) **Sections 7** and **34(2)** come into force on 1 January 2013.
- (2) **Section 32** comes into force on the commencement of clause 5  
6 of Schedule 7.
- (3) **Sections 30** and **35** come into force on the day after the date  
on which this Act receives the Royal assent.
- (4) The rest of the Act comes into force on 1 April 2012.

**Part 1**

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**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 in-  
vestment and business income: 20
  - (b) to provide for repayment holidays to be granted by the  
Commissioner and to limit their term to 365 days: 20
  - (c) to require borrowers who apply for repayment holidays  
to have contact persons who may be requested to assist  
the Commissioner in locating borrowers: 25

- (d) to make miscellaneous amendments to the principal Act.

## 5 Interpretation

- (1) The definition of **net income** in section 4(1) is repealed.
- (2) The definition of **other income** in section 4(1) is amended by 5  
omitting “net income for that tax year other than from salary or wages or” in both places where it appears and substituting in each case “adjusted net income for that tax year other than from”.
- (3) The definition of **other income repayment obligation** in section 4(1) is amended by omitting “other income the borrower derives for a tax year, calculated in accordance with section 91” and substituting “adjusted net income the borrower derives for a tax year, calculated in accordance with **section 90** or **91**”. 15
- (4) The definition of **significant over-deduction** in section 4(1) is amended by omitting “, from a borrower who does not derive other income in the tax year in which the deduction is made, ”.
- (5) Paragraph (b) of the definition of **special deduction rate** in section 4(1) is repealed. 20
- (6) Section 4(1) is amended by inserting the following definitions in their appropriate alphabetical order:  
“**adjusted net income** has the meaning given to it in **section 88A**  
“**net pre-taxed income** has the meaning given to it in **section 73**”. 25

## 6 Certain information must be disclosed in loan contract

Section 13 is amended by repealing paragraphs (g) and (h) and substituting the following paragraphs:

- “(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: 30
- “(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))”. 35

- 7 New section 16A inserted**  
The following section is inserted after section 16:
- “16A Loan manager must notify Commissioner of any details held about borrower’s contact person**
- “(1) In any case where a borrower has advised the loan manager of the details of the borrower’s contact person, the loan manager must notify the Commissioner of the following details, to the extent that they are available:
- “(a) the name of the individual:
  - “(b) a postal address for the individual: 10
  - “(c) a telephone number for the individual:
  - “(d) an electronic address for the individual.
- “(2) The Commissioner and the loan manager may, for the purpose of this section, determine by written agreement between them— 15
- “(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.” 20
- 8 Application for unused repayment threshold to be allocated to secondary employment earnings**  
Section 42(1) is amended by omitting “; and” from paragraph (b) and also by repealing paragraph (c).
- 9 Issue and application of special deduction rate certificate** 25  
Section 46(2)(a) is amended by omitting “or 102”.
- 10 Assessment of standard deductions that ought to have been made**  
Section 51(2) is repealed.
- 11 Borrowers who are eligible for exemption from standard deductions** 30  
Section 54(1) is amended by repealing paragraphs (b) and (c) and substituting the following paragraph:

- “(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 5
  - “(iii) in the case of a borrower to whom subpart 3 applies, adjusted net income.”

## 12 Procedure if significant over-deduction made

- (1) Section 67(2)(d) is amended by inserting “, subject to **subsections (2A) and (3),**” after “borrower may”. 10
- (2) Section 67 is amended by inserting the following subsection after subsection (2):
- “(2A) In any case where there is also, in relation to the borrower and any tax year, a significant under-deduction that the Commissioner has at any time identified, the significant under-deduction may be offset against the significant over-deduction before any refund is made.” 15

## 13 New section 73 substituted

Section 73 is repealed and the following section substituted:

- “**73 Meaning of net pre-taxed income** 20
- “(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— 25
- 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. 30 35

- “(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. 5
- “(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. 10
- “(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: 15
- “(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.” 20
- Compare: 2007 No 97 s MB 3

#### 14 New section 88A inserted

The following section is inserted after section 88:

##### “88A Meaning of adjusted net income

- “(1) In this Act, **adjusted net income** means a borrower’s income calculated in accordance with the formula— 25
- $$a = b - c$$
- where—
- a is the borrower’s adjusted net income
- b is the borrower’s annual gross income other than from salary or wages 30
- 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, 35
- treating the borrower as having only the income and deduc-

tions 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. 5

“(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. 10

“(5) In this section,—

“**business** has the same meaning as in section YA 1 of the Income Tax Act 2007 15

“**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)

**15 New sections 90 and 91 substituted**

Sections 90 and 91 are repealed and the following sections substituted: 20

**“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 25

“(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—

$$a = b \times (c - d) \quad 30$$

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 35

- 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.
- “91 Calculation of borrower’s other income repayment obligation where salary or wages equal to or above threshold 5**
- “(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. 10
- “(2) The borrower’s other income repayment obligation for the tax year must be calculated in accordance with the formula—
- $$a = b \times c \quad 15$$
- 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. 20
- 16 Heading and sections 101 to 104 repealed**
- The heading above section 101 and sections 101 to 104 are repealed.
- 17 New sections 106 to 108A and heading substituted 25**
- Sections 106 to 108 and the heading above section 107 are repealed and the following sections and heading substituted:
- “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. 30

*“Repayment holiday from overseas-based  
repayment obligations*

**“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. 5
- “(2) The application may be made from New Zealand or from overseas, but no application may be made by an overseas-based borrower. 10

**“107A Contact person to be nominated**

- “(1) At the time of making an application under **section 107** and whenever **subsection (2)** applies, the borrower must nominate, as the borrower’s contact person, an individual who resides in New Zealand. 15
- “(2) This subsection applies whenever an individual nominated under **subsection (1)** dies or becomes incapacitated or is for any other reason ineligible, unable, or unwilling to act as the borrower’s contact person.
- “(3) 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: 20
- “(a) the name of the individual:
- “(b) a New Zealand postal address for the individual: 25
- “(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).
- “(4) Whenever the details specified in **subsection (3)** change, the borrower must notify the Commissioner of the changed details. 30

**“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— 35



- “(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. 5
- “(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 10
- “(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 15
- “(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— 20
- “(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 25
- “(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. 30

**“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. 35

- “(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. 5
- “(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. 10

**“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. 15
- “(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— 20
- “(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. 25
- “(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.” 30

**18 Repayment obligations of overseas-based borrowers**

Section 110 is amended by repealing subsection (1) and substituting the following subsection: 35

“(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)**.”

**19 Repayment to be made by instalments**

Section 112 is amended by repealing subsection (3) and substituting the following subsection: 5

“(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.” 10

**20 Repayment obligations of borrowers who are overseas-based for part of tax year**

Section 115(1) is amended by repealing paragraph (c) and substituting the following paragraph: 15

“(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”.

**21 Interpretation**

The definition of **10% bonus** in section 118 is amended by omitting “124(2), or 125(2)” and substituting “or 124(2)”. 20

**22 Meaning of excess repayment**

Section 119(2)(a)(ii) is repealed.

**23 Section 125 repealed**

Section 125 is repealed. 25

**24 Consequences of refund or credit to next tax year**

Section 129(2) is repealed.

**25 Commissioner may grant relief from late payment interest**

Section 146 is amended by repealing subsection (3) and substituting the following subsections: 30

- “(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 5
  - “(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 10 to that choice with all necessary modifications.”
- 26 Issue and application of special deduction rate certificate**  
Section 149(2) is amended by omitting “, 102,”.
- 27 Late filing penalty for certain declarations**  
Section 155(3) is amended by omitting “net income” and substituting “adjusted net income or net pre-taxed income”. 15
- 28 Annual administration fee**  
Section 189(1) is amended by omitting “has a loan balance” and substituting “has a consolidated loan balance”.
- 29 New section 193A inserted** 20  
The following section is inserted after section 193:
- “193A Contact person may be requested to assist**
- “(1) This section applies if—
- “(a) the borrower has an unpaid amount; and
  - “(b) the Commissioner does not have current address details 25 for the borrower or is uncertain whether the address details for the borrower are still current.
- “(2) The Commissioner may request the borrower’s contact person—
- “(a) to notify the Commissioner of the borrower’s current 30 address details; or
  - “(b) to ask the borrower to notify the Commissioner of the borrower’s current address details.

- “(3) 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.
- “(4) 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 5
  - “(b) may use any information obtained from a request under this section only for the purposes of this Act.
- “(5) In this section,— 10
- “**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) 15
- “**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**.” 20
- 30 Early applications and issue of certificates for transition to this Act**
- (1) Section 219(1)(a) is amended by omitting “, 101,”.
  - (2) Section 219(2)(a) is amended by omitting “, 102,”. 25
- 31 Schedule 6 amended**
- Clauses 9 and 10(4)(b)(ii)(B) of Schedule 6 are repealed.
- 32 Schedule 7 amended**
- (1) Section 146(1)(a), as substituted by clause 6 of Schedule 7, is repealed and the following paragraph substituted: 30
    - “(a) if late payment interest has been added to a borrower’s unpaid amount under section 141; and”.
  - (2) Section 146(3)(b), as substituted by clause 6 of Schedule 7, is amended by omitting “if the late payment interest has been added to the borrower’s unpaid amount under section 141(2),”. 35

**33 Schedule 9 amended**

The item relating to section 81(4)(g) and (gb) of the Tax Administration Act 1994 in Schedule 9 is amended by adding the following paragraph:

“(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.”

**Part 2**

10

**Transitional provision and related  
amendments to Student Loan Scheme Act  
1992**

**34 Transitional provision**

- (1) Until the close of 31 December 2012, the definition of **contact person** in **section 193A(5)** of the principal Act must be read without reference to **paragraph (a)** of that definition. 15
- (2) This section is repealed on 1 January 2013.

**35 Student Loan Scheme Act 1992**

- (1) This section amends the Student Loan Scheme Act 1992. 20
- (2) The heading to section 57B is amended by omitting “**31 March 2006**” and substituting “**1 April 2006**”.
- (3) Section 57B is amended by omitting “31 March 2006” and substituting “1 April 2006”.
- (4) Section 63L(1) is amended by omitting “a loan balance” and substituting “an IRD loan balance (including any amounts payable under this Act)”. 25