



**Inland Revenue**  
Te Tari Taake

## POLICY AND STRATEGY

**Tax policy report: Fees-free tertiary education policy – legislative and operational requirements to support the student loan scheme delivery option**

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<b>Date:</b>	17 November 2017	<b>Priority:</b>	<b>High</b>
<b>Security level:</b>	In Confidence	<b>Report no:</b>	IR2017/601

### Action sought

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	Action sought	Deadline
Minister of Revenue	<b>Note</b> the contents of this report <b>Refer</b> a copy of this report to the members of the Ministerial subgroup on 100 days tertiary education commitments	20 November 2017

### Contact for telephone discussion (if required)

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Name	Position	Telephone
Arlene White	Deputy Commissioner – Service Delivery	
Charles Ngaki	Policy Manager	



**POLICY AND STRATEGY**

*Te Wāhanga o te Rautaki me te Kaupapa*

**National Office**

Level 8  
55 Featherston Street  
PO Box 2198  
Wellington 6140  
New Zealand

Telephone 04 890 1500

Facsimile 04 903 2413

17 November 2017

Minister of Revenue

## **Fees-free tertiary education policy – legislative and operational requirements to the support student loan scheme delivery option**

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### **Executive summary**

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1. This report sets out the legislative and operational changes that would be needed to support the implementation of the fees-free tertiary education policy using the student loans scheme. These changes would be required to be made by 1 January 2018.
2. Inland Revenue considers that, if this delivery channel is selected, legislative amendments to the Student Loan Scheme Act 2011 should be made in order to help mitigate any unintended consequences and improve the overall transparency of the delivery channel. Specifically, the amendments would be necessary to defer collection and recovery action on loan accounts with a fees-free component, clear the fees-free component of the loan account by way of an offsetting payment, allow for information sharing between Inland Revenue and other agencies involved in the delivery channel and ensure that policy intentions are met.
3. The delivery channel would involve business process changes, information sharing, and customer service impacts for Inland Revenue. We estimate that the cost of implementing the channel to be \$3.9 million. This cost assumes ongoing involvement of Inland Revenue beyond 2018 and no significant operational changes to the student loan scheme.
4. The delivery channel would also have an impact on revenue flows resulting from deferral of the collection and recovery action on loan accounts in 2018. This is estimated to be in the region of \$4 million. We also note that beyond the direct fiscal costs of the fees-free policy there are wider fiscal implications of using the student loan scheme.
5. Owing to time constraints and the need for legislation to be introduced and enacted before the House rises this year, there is a need to start the legislative drafting process as soon as possible. This drafting work can be carried out in advance of the Cabinet decision on the delivery channel to implement the fees-free policy, which is expected on 4 December 2017.

6. The Parliamentary Counsel Office has advised that they can commence drafting work in the week commencing 20 November so long as there is an instruction from Ministers.

7. Should Ministers decide to adopt the student loan scheme option, there are two possible pathways for enacting the required legislative amendments; either:

- a standalone bill (enacted under urgency before the end of the year); or
- the taxation omnibus bill containing elements of the Government's Families' Package (scheduled to be introduced in the week commencing Tuesday 12 December and passed under urgency before the end of the year).

### Next steps

8. The advice in this report is intended for discussion at the meeting of the Ministerial subgroup on 100 days tertiary education commitments, which is scheduled on Monday 20 November. At this meeting, we would seek the approval of the Ministerial subgroup on the following matters:

- To instruct PCO to commence drafting of legislative amendments to the Student Loan Scheme Act 2011 to enable the fees-free policy to be delivered through the student loan scheme consistent with policy intentions.
- The choice of legislative pathway.

9. We recommend that you refer a copy of this report to the Ministers of Finance (Hon Grant Robertson), Education (Hon Chris Hipkins), Social Development (Hon Carmel Sepuloni), and the Associate Minister of Education (Hon Tracey Martin). Other agencies involved in developing the fees-free policy have only had limited time to consider the advice in this report.

10. Inland Revenue officials will be present at the subgroup's next meeting to speak to the matters raised in this report.

### Recommended action

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We recommend that you:

- (a) **Refer** a copy of this report to the members of the Ministerial subgroup on 100 days tertiary education commitments.

Referred


- (b) **Note** that this report is on the agenda for discussion at the next meeting of the Ministerial subgroup, which is scheduled on Monday 20 November.

Noted

- (c) **Note** that at the Ministerial subgroup meeting, officials will be seeking the group's approval of the following matters:

- An instruction for Parliamentary Counsel Office to commence the drafting of legislative amendments to the Student Loan Scheme Act 2011 to enable the fees-free policy to be delivered through the student loan scheme consistent with policy intentions and that this approval is required as soon as possible.
- The preferred legislative pathway for enacting the proposed legislative amendments; either:
  - a standalone bill (enacted under urgency before the end of the year); or
  - the taxation omnibus bill containing elements of the Government's Families' Package (scheduled to be introduced in the week commencing Tuesday 12 December and passed under urgency before the end of the year).

Noted

  
**Charles Ngaki**  
Policy Manager  
Policy and Strategy

**Hon Stuart Nash**  
Minister of Revenue

/ /2017

## Previous consideration of this issue

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11. As previously advised, there are two broad interim delivery channels for implementing the fees-free provider-based tertiary education policy in 2018. One of the delivery channels being considered is to use the student loan scheme administered by Inland Revenue.

12. Inland Revenue considers that legislative amendments to the Student Loan Scheme Act 2011 would be necessary to implement this delivery channel and to ameliorate the negative consequences arising from the scheme's collection and recovery provisions.

13. The Ministerial subgroup on 100 days tertiary education commitments met on Wednesday, 15 November to discuss progress on the delivery mechanisms to implement the fees-free policy. At that meeting Ministers considered that officials should commence the process for drafting the necessary legislative amendments to deliver fees-free through the student loans scheme.

14. We understand that Ministers are concerned to ensure that there is legislation ready to be introduced into the House and enacted by 1 January 2018 should they decide to deliver the fees-free policy through the student loan scheme.

15. For completeness, this report also discusses the operational changes required to be made to Inland Revenue's business processes to help improve the overall efficacy of the delivery channel.

## Proposed student loan scheme delivery channel

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16. The primary purpose of the Student Loan Scheme Act 2011 is to collect repayments of student loans. The Act is highly prescriptive and procedural.

17. Under the proposed delivery channel, we envisage the following steps:

- Student applies to StudyLink for a loan.
- StudyLink pays the tertiary education provider.
- StudyLink establishes a loan contract with the student.
- StudyLink transfers the loan and the list of students who are eligible for "fees-free" to Inland Revenue.
- Inland Revenue manages the loan.
- Inland Revenue uses the list of eligible students to flag those accounts that contain a fees-free component. This action would allow Inland Revenue to defer any collection and recovery action during the year.

- Inland Revenue clears the fees-free component of the loan by way of an offsetting payment.

### Impact on eligible students and Inland Revenue

18. If the current student loan scheme were to apply *without any modification* there would be collection and recovery action on the loan accounts of eligible students throughout the 2018 year. These actions include:

- Notifications would be sent to eligible students advising them of their student loan repayment obligations, which would include advice to students that they should use the student loan tax code if they are working so that their employer can deduct student loan repayments from their wages on each payday. This collection activity would be in appropriate for eligible student if their loan account only included fees-free.
- If student loan repayments were made to a fees-free loan account, these repayments might not be able to be refunded until after the end of the tax year. This situation would give rise to fairness concerns.
- Depending on when the offsetting payment is received by Inland Revenue to clear the fees-free loan account, there could be a risk that students could withdraw amounts above their repayment obligation including any fees-free payment. This would present a risk to the integrity of the fees-free policy and the student loan scheme.

### Mitigations

19. Inland Revenue could minimise these actions with clear messaging and communications to eligible students and by suppressing notifications, statements, and collection and recovery action. Suppression action would involve changes to Inland Revenue's business processes and manual workarounds.

20. Inland Revenue considers that legislative amendments to the Student Loan Scheme Act 2011 would be needed to enable any "suppression action" to be carried out from 1 January 2018. These amendments might also be required to enable Inland Revenue to advise eligible students from the start of the 2018 year that no recovery action would be carried out on their loan accounts. In addition, legislative amendments would be required to allow information sharing and to clear loan accounts with the offsetting payments.

21. However, deferring all activity on the loan accounts of eligible students for the 2018 year would impact on revenue flows. This is because Inland Revenue would not be collecting any repayments on loan accounts that are subject to fees-free in 2018. Based on borrower data for the 2016 year we estimate the impact of non-collection could be in the region of \$4 million.

## Administrative implications for Inland Revenue

22. The table below shows the estimated costs for Inland Revenue of administering the fees-free policy. These costs are based on an interim solution being implemented from 1 January 2018 and an assumption of ongoing costs in the out-years if Inland Revenue's role in administering the fees-free option extends beyond 2018. At this stage no allowance has been made for changes to systems and processes beyond 2018.

Operating	2017-18	2018-19	2019-20	2020-21 and out- years	Total
	\$m	\$m	\$m	\$m	\$m
Fees free	1.200	1.100	0.800	0.800	3.900
Total	1.200	1.100	0.800	0.800	3.900

23. In assessing this delivery channel, Inland Revenue has sought to minimise impacts on student loan customers and to avoid overcomplicating system and process changes. Inland Revenue is continuing to assess the potential impacts of the proposed option.

24. These costs are based on changes to business processes, the information sharing that would be required, and customer service impacts. Because the delivery channel is intended to be a short-term solution, the costs assume no significant change to the student loan scheme.

25. As final decisions have yet to be made, there is a high level of uncertainty involved in the assessment. Inland Revenue has included a 75 percent contingency on the technology components and 50 percent on other costs.

26. Inland Revenue is still exploring options for covering the implementation costs. Because this initiative is one of up to five 100 days initiatives that Inland Revenue is involved with, it would require an increase in appropriation to cover increased customer service costs in out-years. The cumulative customer service cost across all initiatives is estimated to be \$2 million per annum.

## Wider fiscal implications

27. In addition to the administrative costs and direct fiscal costs of the fees-free policy, there are other potential fiscal impacts associated with delivering the fees-free policy through the student loan scheme.

28. These impacts include:

- changes to the Initial Fair value write-down due to increased borrowing; and
- changes to the impairment of the student loan asset due to altered composition of the asset.

29. Until the details of the delivery mechanism are settled, understanding and quantifying these impacts is difficult.

### **Proposed legislative amendments**

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30. If Ministers choose this delivery option and want to minimise the negative impacts on eligible students and ensure policy intentions are met from 1 January 2018, Inland Revenue recommends amendments to the Student Loan Scheme Act 2011.

31. Specifically, amendments would be required to:

- enable Inland Revenue to defer collection and recovery action on loan accounts of eligible students in order to stop student loan repayments being made on fees-free loan accounts during the year and to stop any late payment interest applying;
- prevent eligible students from withdrawing offsetting payments from their loan accounts after these payments are made;
- provide for information sharing between the Ministry of Social Development and potentially the Tertiary Education Commission.

32. As it currently stands the proposal is for Inland Revenue to receive an offsetting payment to clear the fees-free component of the loan balance. Legislative amendment might also be required for this aspect of the delivery channel.

33. Inland Revenue's view is that it would be best to keep the level of legislative amendments to a minimum given the time for drafting the changes and to allow enactment of the any such legislation before the House rises at the end of the year.

### **Parliamentary Counsel Office**

34. We have had initial discussions with the Parliamentary Counsel Office (PCO). PCO advises that if technical amendments to the legislation are numerous and complex then we should seek to look at options that "fit" the time available. One option would be to have an overarching provision that allows Inland Revenue to administer the loan accounts consistent with desired policy intentions - that is, defer all collection and recovery action during the year and enable the fees-free component of the loan account to be cleared on receipt of the offsetting payment.

35. PCO also advise that they could begin drafting the necessary legislative amendments pursuant to an instruction from the Ministerial sub-group and in advance of any Cabinet decision (which are planned for 4 December). This would help to ensure that legislation is ready to be introduced should Ministers decide to pursue the student loans delivery channel.



## Legislative vehicle and process

36. Should Ministers decide to pursue the student loan delivery channel, there are two possible legislative options for enacting the required amendments to the Student Loan Scheme Act 2011 (under urgency). They are:

- a standalone bill (enacted under urgency before the end of the year); or
- the taxation omnibus bill containing elements of the Government's Families' Package (scheduled to be introduced in the week commencing Tuesday 12 December and passed under urgency before the end of the year).

37. Initial discussions with the advisor to the Leader of the House indicated that aside from legislation for the Families' Package there are no other bills on the legislative programme that are due to be enacted before the end of the year. If a standalone bill was to be considered, however, it would be preferable for this to be introduced in the week commencing Tuesday, 5 December.

38. Inland Revenue considers that, if this was feasible, a standalone bill would be a transparent option and it could potentially be progressed earlier. However, this would be dependent on the legislative changes being of a simple nature and PCO being able to deliver a bill (with Bill of Rights vetting) in the time available. We are currently assessing the nature and quantum of the changes involved, and should be able to advise the Ministerial subgroup at their next meeting on Monday, 20 November.

39. Set out below are suggested timelines for each of the legislative vehicle options. The standalone bill could, if time permits and drafting is simple, be introduced into the House a week earlier than the Families' Package bill.

Activity	Standalone bill	Families' Package bill
Sub-group Ministers approve instruction to PCO to commence legislative drafting	20 November	20 November
Cabinet Committee – approval of final policy	29 November	29 November
Cabinet – approval of final policy	4 December (Approval would also be sought for introduction of the bill)	4 December
Cabinet Legislation Committee – approval of introduction of bill	N/A	14 December
Bill introduced under urgency	5 December	12 December
Enactment of bill	Before the House rises	Before the House rises

40. We seek Ministerial subgroup approval to instruct PCO to commence drafting of the required legislative amendments to give effect to the student loans delivery channel as soon as possible. We also seek the subgroup's approval on their preferred legislative pathway.