

3 November 2016

Mr Michael Rescue  
fyi-request-4878-cffeaa5a@requests.fyi.org.nz

Dear Mr Rescue

Thank you for your request under the Official Information Act 1982, in which you requested the following:

*In a previous request you gave the following answer to one of my questions (question 5) and I would like you to elaborate on this, the question and answer from my previous request (questions 5) are outlined below and likewise the areas I would like you to elaborate on for this request follow as questions 1-3:*

*5) It states in clause 162B of the Student Loan Scheme Amendment Bill (No 3) that on an application in writing by the Commissioner a district court judge or registrar may issue a warrant for the arrest of a person (the liable person) if the Judge or Registrar(as the case may be) is satisfied that the person has committed the offence in section 162A: (having been notified by the Commissioner that he or she is in default, knowingly fails, or refuses, by the due date specified in the notification to make reasonable efforts to pay the amount in default or to make arrangements with the Inland Revenue Department to pay the amount in default). How is this condition satisfied in regards to the defaulter knowingly failing or refusing to make reasonable efforts to pay the amount in default? How can commissioner be certain that the defaulter has been contacted and been notified of the status of their student loan? Does a letter posted to an assumed address constitute satisfaction that the person has knowingly committed the offence?*

*Inland Revenue must be satisfied that the borrower has been notified of their default by having had contact with the borrower. A letter posted to an assumed address is not considered as having had contact with the borrower. Contact can include, but is not limited to:*

- a written reply from the borrower acknowledging the debt*
- a written affidavit of service on the borrower by the process server*
- a recorded phone call/s with the borrower*

*In continuation to the already the answered request above I would like the three following questions answered:*

*1) Based on the above information are you therefore stating that if an individual does not fit into the three criteria classifications outlined that an arrest warrant cannot legally be issued under clause 162B? If an arrest warrant is issued, is the arresting party required to prove in court that this criteria has been met for clause 162B?*

2) You state that "Contact can include, but is not limited to" in the above three scenarios -

*Can you please list all other circumstances where this condition is satisfied for clause 162B that you did not include in the original response, the criteria that satisfy contact and knowingly failing to make payment for clause 162B must be exhaustive and include all possible scenarios used to determine contact based on the below clause 162B:.*

*(having been notified by the Commissioner that he or she is in default, knowingly fails, or refuses, by the due date specified in the notification to make reasonable efforts to pay the amount in default or to make arrangements with the Inland Revenue Department to pay the amount in default)*

3) *Of the three publicised arrests this year for student loan default, which of the criteria did each of these arrests fit into in order to satisfy clause 162B (how was contact and refusal to pay satisfied in each of these three situations):*

*\* Specifically – how was the criteria of knowingly failing or refusing by the due date specified in the notification to make a reasonable effort to pay the amount in default met in each of the three individual situations for clause 162B?*

*\* When were these notifications sent to these individuals in order to meet clause 162B, were the individuals notified when already in New Zealand and when already travelling or prior to visiting New Zealand?*

*\* Did all three individuals reported in the media appear in court and if so when appearing in court were the criteria used to satisfy the knowingly refusal to pay clause outlined by the arresting party?*

We received the request on 2 November 2016 and will respond by 30 November 2016.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Leisa Coley', written in a cursive style.

Leisa Coley  
Team Manager, Government and Executive Services