



COVERSHEET

Minister	Hon Grant Robertson Hon Dr David Clark	Portfolio	Finance Commerce and Consumer Affairs
Title of Cabinet paper	Extending COVID-19 Business Debt Hibernation Scheme	Date to be published	4 February 2021

List of documents that have been proactively released

Date	Title	Author
25 November 2020	Extending COVID-19 Business Debt Hibernation Scheme	Office of the Minister of Finance Office of the Minister of Commerce and Consumer Affairs
25 November 2020	CBC-20-MIN-0077	Cabinet Business Committee

Information redacted

NO

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Cabinet Business Committee

Minute of Decision

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Extending the COVID-19 Business Debt Hibernation Scheme

Portfolios **Finance / Commerce and Consumer Affairs**

On 25 November 2020, the Cabinet Business Committee:

- 1 **noted** that on 3 April 2020, the COVID-19 Ministerial Group agreed to amend the Companies Act 1993 to create the business debt hibernation scheme;
- 2 **noted** that entities are unable to enter into business debt hibernation from the close of 24 December 2020 if the scheme is not extended;
- 3 **noted** that under section 395B of the Companies Act 1993 the Minister of Finance and the Minister of Commerce and Consumer Affairs are jointly able to recommend to the Governor-General to extend the availability of the business debt hibernation scheme;
- 4 **noted** that, when recommending to the Governor-General to extend the availability of the business debt hibernation scheme, section 395B of the Companies Act 1993 requires the Minister of Finance and Minister of Commerce and Consumer Affairs to have regard to:
 - 4.1 the purposes of the business debt hibernation scheme;
 - 4.2 the effect of the regulations on:
 - 4.2.1 the creditors of entities that have significant liquidity problems; and
 - 4.2.2 the integrity of corporate insolvency law;
- 5 **noted** the advice of the Minister of Finance and Minister of Commerce and Consumer Affairs that these criteria under section 395B of the Companies Act 1993 have been met;
- 6 **noted** the recommendation of the Minister of Finance and Minister of Commerce and Consumer Affairs to extend:
 - 6.1 the ability for businesses to enter the business debt hibernation scheme until the close of 31 October 2021; and
 - 6.2 the date by which businesses entering BDH after 24 December 2020 must consider they will be able to pay their debts as they fall due to 31 July 2022;

- 7 **noted** that the Companies (COVID-19—Business Debt Hibernation) Regulations 2020 will give effect to the Minister of Finance and Minister of Commerce and Consumer Affairs’ joint recommendation to extend the ability for businesses to enter the business debt hibernation scheme under the Companies Act 1993;
- 8 **authorised** the submission to the Executive Council of the Companies (COVID-19—Business Debt Hibernation) Regulations 2020 [PCO 23121/7.0];
- 9 **noted** that the Companies (COVID-19—Business Debt Hibernation) Regulations 2020 come into force on 24 December 2020;
- 10 **noted** that a waiver of the 28-day rule is sought:
- 10.1 so that the regulations can come into force before the business debt hibernation scheme expires; and
- 10.2 on the grounds that it is necessary to comply with statutory obligations;
- 11 **agreed** to a waiver of the 28-day rule so that the regulations can come into force on 24 December 2020.

Gerrard Carter
Committee Secretary

Present:

Rt Hon Jacinda Ardern (Chair)
Hon Grant Robertson
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Nanaia Mahuta
Hon Poto Williams
Hon Damien O’Connor
Hon Stuart Nash
Hon Willie Jackson
Hon Michael Wood
Hon Dr David Clark
Hon Meka Whaitiri

Officials present from:

Office of the Prime Minister
Department of the Prime Minister and Cabinet