

'Safe Harbour' measures rolled out for businesses

In order to successfully return New Zealand businesses and economy to normality, the government has rolled out a safe harbour scheme for businesses who are facing insolvency. These changes will be to the Companies Act 1993 and aim to protect jobs and income while keeping kiwis in employment by preventing businesses from going into liquidation.

The temporary changes being made include:

- Directors of companies who are facing significant liquidity problems because of COVID-19 can be given a 'safe harbour' from insolvency duties under the Companies Act;
- Enabling businesses affected by COVID-19 to take debt hibernation, where existing debts can be paused until the business is trading normally again;
- Allowing the use of electronic signatures wherever COVID-19 restrictions make this necessary;
- The Registrar of Companies being given the power to temporarily extend deadlines under legislation that have been imposed on companies, incorporated societies, charitable trusts and other entities; and
- Giving temporary relief to any entities that are unable to comply with the existing requirements of their constitutions or rules.

These measures have been introduced in order to help businesses to 'weather the storm' with as little damage as possible to creditor's interests, but business owners are reminded that they are not to replace other aspects of the law, such as where it addresses duties of good faith and dishonest incurring of debt.

The Government will be asking Parliament to agree that the safe harbour amendments be backdated to the date of the announcement of this measure (3 April 2020).

Resources:

Further measures to support businesses <<https://www.beehive.govt.nz/release/further-measures-support-businesses>> 3 April 2020

Insolvency relief for businesses impacted by COVID-19
<<https://www.companiesoffice.govt.nz/about-us/what-we-do/insolvency-relief-for-businesses-impacted-by-covid-19/>> 6 April 2020