

# House of Representatives

# Supplementary Order Paper

**Tuesday, 12 May 2020**

## **COVID-19 Response (Further Management Measures) Legislation Bill**

### *Proposed amendments*

Hon Kris Faafoi, in Committee, to move the following amendments:

#### *Schedule 2: clause 12*

In *Schedule 2, clause 12*, after *new section 395B(1)(h)* (page 37, after line 31), insert:

- (ha) specifying modifications, additions, or variations to how the Tax Administration Act 1994 applies to an instalment arrangement referred to in **clause 74 of Schedule 13**:

In *Schedule 2, clause 12, new section 395B(1)(l)* (page 38, line 7), after “both”, insert “and provisions relating to an instalment arrangement that ceases to be in force under **clause 74 of Schedule 13**”.

#### *Schedule 4: new clause 4(1) of new Schedule 13*

In *Schedule 4, new Schedule 13, clause 4(1)*, definition of **excluded debt**, after *paragraph (a)(iii)* (page 60, after line 13), insert:

- (iiia) any other amount payable by an entity to the Commissioner of Inland Revenue that is subject to an instalment arrangement under section 177B of the Tax Administration Act 1994 that was entered into before the entity enters into BDH; or

#### *Schedule 4: new clause 74 of new Schedule 13*

In *Schedule 4, new Schedule 13*, after *clause 73* (page 85, after line 17), insert:

**74 Arrangement treated as instalment arrangement under Tax Administration Act 1994**

- (1) This clause applies to the extent that an arrangement approved under **clause 22** involves 1 or more payments being made to the Commissioner of Inland Revenue.
- (2) The arrangement must be treated as being an instalment arrangement under section 177B of the Tax Administration Act 1994 when the arrangement is approved under **clause 22**.
- (3) The instalment arrangement ceases to be in force at the end of the protection period.
- (4) The Tax Administration Act 1994 applies to the instalment arrangement—
  - (a) subject to the modifications, additions, or variations specified in the regulations; and
  - (b) with all other necessary modifications.

### Explanatory note

This Supplementary Order Paper amends the business debt hibernation provisions (**BDH**) in the COVID-19 Response (Further Management Measures) Legislation Bill.

The SOP amends the definition of excluded debts in *clause 4(1)* of *new Schedule 13* of the Companies Act 1993. The protections in *Part 5* of *new Schedule 13* do not apply to excluded debts. The definition already provides for PAYE and KiwiSaver contributions to be excluded debt. The amendment extends the definition to also provide for any other amount payable to the Commissioner of Inland Revenue (the **Commissioner**) to be excluded debt when the amount is already subject to an existing instalment arrangement under section 177B of the Tax Administration Act 1994.

This SOP also inserts *new clause 74* into *new Schedule 13*. This clause relates to arrangements that an entity can enter into with its creditors under the schedule. The clause provides that, if the arrangement involves payments being made to the Commissioner, the arrangement must be treated as being an instalment arrangement under section 177B of the Tax Administration Act 1994.

The regulation-making powers in *new section 395B* of the Companies Act 1993 (as inserted by *clause 12* of *Schedule 2*) are amended to allow regulations to—

- specify how the Tax Administration Act 1994 applies to an instalment arrangement under *new clause 74*; and
- prescribe transitional arrangements relating to the instalment arrangement ceasing to be in force.

**Departmental disclosure statement**

The Ministry of Business, Innovation, and Employment considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.