

COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Bill

Government Bill

Explanatory note

General policy statement

This omnibus Bill introduces amendments to the following legislation:

- Income Tax Act 2007
- Tax Administration Act 1994
- Child Support Act 1991
- Animal Welfare Amendment (No 2) Act 2015
- Public Finance Act 1989
- Crown Entities Act 2004
- State Owned Enterprises Act 1986
- Credit Contracts Legislation Amendment Act 2019

The proposals in this Bill are all aimed at assisting the Government's response to impacts of the COVID-19 outbreak. Broadly, the policy proposals in this Bill fall into 2 categories. The first of these categories is targeted measures aimed at providing relief to those that have been economically affected by the COVID-19 outbreak. The second category is measures to address regulatory compliance issues that have arisen as a result of the COVID-19 outbreak. These include the bringing forward or deferral of commencement dates of new legislation, and the extension of timeframes for meeting regulatory deadlines.

Owing to the short timeframe available for developing a policy response to COVID-19, general public consultation has not been undertaken on the proposals in the Bill. As such, the tax policy measures within this Bill have not been developed in accordance with the Generic Tax Policy Process. However, targeted consultation on

detailed design of the tax policy proposals has been carried out with a small number of stakeholders.

The following is a brief summary of the measures contained in this Bill. A fuller explanation of the tax policy items is provided in a commentary on the Bill that is available at <https://taxpolicy.ird.govt.nz/publications/2020-commentary-covid-19-torum-bill/overview>

Temporary loss carry-back regime

Part 1 of this Bill amends the Income Tax Act and Tax Administration Act 1994 to introduce a tax loss carry-back measure. This will have the effect of allowing businesses that anticipate being in loss in either the 2019–20 or 2020–21 tax year to carry some or all of that loss to the preceding year where profits were earned.

Loss carry-forwards and carry-backs are intended to prevent systematic over-taxation over time. If taxpayers always pay tax when they earn income, but never get relief when they have a loss, they will pay more than the statutory rate of tax over time. Loss carry-backs are one way to address this.

The measure in the Bill is intended as a temporary measure to provide fast cash flow relief for businesses in loss during the period affected by COVID-19. The measure enables tax refunds with respect to profit years to be paid before the loss year has finished.

Almost all types of taxpayers—companies, trusts, and individuals—will be eligible to carry back losses. The majority of individuals who are taxed through the PAYE system do not have losses and so will be unaffected by this measure but those that operate businesses through partnerships, limited partnerships, and look-through companies will be able to benefit.

Administrative flexibility

Part 1 introduces a temporary discretionary power for the Commissioner of Inland Revenue to respond swiftly to practical concerns in the current environment and where appropriate modify due dates, timeframes, or procedural requirements for taxpayers who are impacted by COVID-19. This is intended to be applied for requirements that are specified under the Inland Revenue Acts, or provisions of the Unclaimed Money Act 1971.

The Inland Revenue Acts include various requirements which must be met within certain timeframes or procedural and administrative requirements. This provision would allow the Commissioner to, at her discretion, extend dates or time periods and vary procedural or administrative requirements which must be met.

This discretionary power is an additional and more timely method in a suite of tools which the Commissioner may use to respond to practical concerns around compliance with tax requirements due to COVID-19. Existing tools include the ability to remit use of money interest and the Commissioner's discretion under the care and management provision.

Small business cashflow scheme

Part 1 of the Bill inserts a provision into the Tax Administration Act 1994 authorising the Commissioner, on behalf of the Crown, to lend money under the Small Business Cashflow (Loan) Scheme. The scheme is being launched by the Government to assist eligible small to medium businesses that have been adversely affected by COVID-19. The Bill provides for a number of other amendments to support the introduction of the scheme and to ensure that Inland Revenue can use its powers to administer it. Part 1 also amends the Tax Administration Act 1994 to:

- provide that the Commissioner's decision to grant or to decline to a loan under the scheme is not a disputable decision for the purposes of the Tax Administration Act 1994; and
- enable information sharing between Inland Revenue and the Ministry of Social Development for the purposes of the administration of the loan scheme.

The Bill also amends the Income Tax Act 2007 to ensure that the conversion of a portion of the loan to a grant will not have adverse income tax implications for the applicant.

Tax and social policy treatment of pension and benefit equivalent payments

On 17 April 2020, the Minister for Social Development approved and established the COVID-19 New Zealanders Stranded Overseas Support (NZSOS) Programme under section 101 of the Social Security Act 2018. The COVID-19 NZSOS Programme enables payments to be made from 20 April 2020 to New Zealand beneficiaries and pensioners who are stranded overseas as a result of COVID-19, as these individuals would otherwise lose entitlement to their normal payments.

Part 1 of this Bill amends the Income Tax Act 2007 and Tax Administration Act 1994 to ensure that payments made under the COVID-19 NZSOS Programme are subject to the same tax treatment as their standard counterparts. COVID-19 NZSOS payments that are paid in lieu of a main benefit, New Zealand superannuation, and veteran's pension would be subject to tax and PAYE. COVID-19 NZSOS payments made in lieu of other monetary benefits paid under the Social Security Act 2018 (for example, orphan's benefit and unsupported child's benefit) would be exempt from tax, consistent with the tax treatment of their standard counterparts.

These proposed changes also ensure there is no change in student loan obligations and entitlement to working for families tax credits. It would ensure that MSD can continue to pay the family tax credit and Best Start credit where the individual would otherwise be eligible.

Part 1 of the Bill also amends the Child Support Act 1991 to ensure that any COVID-19 NZSOS payments are appropriately considered for child support purposes and the proposed definitional changes largely mirror the changes proposed in the other Inland Revenue Acts.

Deferral of commencement date of new surgical procedures regime

Part 2 amends section 2 of the Animal Welfare Amendment (No 2) Act 2015 to delay the commencement of sections 5(1) and (6), 9, 11(2), 13(1), 14 to 19, 29(1), and 68(2) of that Act. Those provisions amend the Animal Welfare Act 1999 to remove existing rules about who may carry out different types of surgical procedures on animals and replace them with new criteria for determining whether a procedure on an animal is a significant surgical procedure, and to restrict the performance of such procedures to veterinarians, veterinary students under supervision, or persons specified in regulations. Those provisions are due to come into force on 9 May 2020. The policy objective of this amendment is to delay the changes to the Animal Welfare Act 1999 and therefore the need for regulations in the immediate future. If regulations are not in place by 9 May 2020 to align with the changes to the Act, some routine procedures will only be able to be performed legally by veterinarians or veterinary students under supervision.

The Ministry for Primary Industries (MPI) does not consider it is feasible to introduce new regulations while an epidemic notice is in place. This is because communication with stakeholders through the normal channels to support implementation is not possible. Normal channels of communication would include targeted face-to-face meetings, development and production of physical material, and distribution of information through online media that is now focused on responding to COVID-19.

Further, MPI considers that delaying the introduction of the regulations in the short term will not significantly impact animal welfare outcomes. The regulations are generally intended to clarify who can perform specific procedures and under what circumstances, rather than being a significant change from current requirements or current practice.

Bringing forward commencement of the Credit Contracts Legislation Amendment Act 2019

Part 2 amends the Credit Contracts Legislation Amendment Act 2019 (CCLAA) to address concerns arising from the economic effects of COVID-19:

- to better protect consumers during the disruption and financial uncertainty caused by COVID-19, the Bill will amend the CCLAA to bring forward the commencement date of certain protections relating to high-cost consumer credit contracts from 1 June 2020 to the day after this Bill receives the Royal assent. This change will bring forward the limit on the accumulation of interest and fees (capped at 100% of the loan principal), as well as a prohibition on compound interest, and a cap on default fees:
- the Bill will also amend the CCLAA to enable a delay to the commencement dates of the broader reforms in the Amendment Act of at least 6 months. These reforms were to come into force on 1 April 2021. The CCLAA introduces a range of new measures to protect consumers and will require lenders to implement significant system changes, requiring a lead time of at least 9 months. Lenders are likely to have reduced capacity to prepare for these changes during

the COVID-19 response and recovery for an as yet unknown length of time. Delay is required to give sufficient time to prepare for the implementation of the broader system changes. The Bill shifts the backstop commencement date to April 2023, and provides for the reforms to be brought into force prior by Order in Council:

- for efficiency, the Bill also provides for the coming into force of a range of technical and other provisions of the CCLAA on the day after the Royal assent, and on 1 June 2020, which would otherwise have been brought into force by Order in Council. These are necessary for the effective and efficient operation of the Credit Contracts and Consumer Finance Act 2003 and enforcement of the protections around high-cost credit contracts.

Extension of timeframe for certain entities to provide draft planning documents to responsible or shareholding Ministers

The State-Owned Enterprises Act 1986, Public Finance Act 1989, and Crown Entities Act 2004 contain requirements for various entities to provide draft planning documents to their responsible or shareholding Ministers, and to then finalise these documents. It is anticipated that, because of the effects of COVID-19, some of these entities will be unable to, or will face significant difficulties if required to, provide and finalise the documents within the timeframes provided for in those Acts. The amendments in Part 2 of this Bill provide for powers for responsible or shareholding Ministers.

Departmental disclosure statement

The Inland Revenue Department, the Treasury, the Ministry of Business, Innovation and Employment, and the Ministry for Primary Industries are required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2020&no=240>

Regulatory impact assessment

No regulatory impact assessments have been produced for this Bill as all the proposals are emergency regulatory proposals relating directly to COVID-19 for which regulatory impact assessment requirements have been suspended.

Clause by clause analysis

Clause 1 gives the title.

Clause 2 provides for the commencement of the clauses.

Part 1 Amendments to Inland Revenue Acts

Income Tax Act 2007 amended

Clause 3 sets out the clauses that amend the Income Tax Act 2007.

Clause 4 amends section CW 33 to create an exception from the income tax exemption for a monetary benefit (not being a main benefit) under the Social Security Act 2018 for a payment of special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a payment of New Zealand superannuation or a veteran's pension.

Clause 5 amends section DF 1 to provide an exception to the general denial of a deduction for government grants to businesses for loans made under the small business cashflow scheme established by the Crown to provide loans to assist small-to-medium businesses in the circumstances arising from the continuing impact of COVID-19 related measures or circumstances.

Clause 6 amends section EW 45 to provide that a person who is granted a loan under the small business cashflow scheme and is released from an obligation to pay an amount owing under the loan is treated as having paid the amount owing.

Clause 7 inserts *new section GB 3B*, which provides that an arrangement is not effective if it is intended to allow a company to meet the requirements of *new section IZ 8* in a way that has the purpose of defeating the intent and application of that section.

Clause 8 amends section GB 4 by inserting cross-references to *new section IZ 8*.

Clause 9 amends section IC 9 to extend the time for the filing of a return by a company that uses in a tax year a tax loss arising from a net loss in a later tax year and made available by another company, in the same group of companies, that makes an election under *new section IZ 8*.

Clause 10 amends section ID 1 by inserting a cross-reference to *new section IZ 8*.

Clause 11 inserts *new section IZ 8*, under which a person who has taxable income in the 2018–19 or 2019–20 tax year and anticipates a net loss in the next tax year may make an election to reduce the amount of the net loss and also reduce the amount of the person's taxable income in the earlier year by the same amount. The effect of the election is known as "carrying back" the amount of net loss, while the usual approach of using a tax loss in a later tax year is known as "carrying forward" the tax loss.

Clause 12 amends section MD 6 to ensure that a child for whom a payment of special assistance is made under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an orphan's benefit or an unsupported child's benefit is treated as financially dependent on a person who is their principal caregiver for the purpose of determining the person's entitlement to an in-work tax credit for the child.

Clause 13 amends section RC 7 so that a person, or a shareholder-employee of a person, who makes an election under *new section IZ 8* may use the estimation method for determining the amount of provisional tax required for the earlier of the tax years

affected by the election. The estimate or revision of an estimate may be made within an extended period.

Clause 14 amends section RM 10 by inserting a cross-reference to *new section IZ 8*.

Clause 15 amends section YA 1. *Subclause (2)* amends the definition of *available tax loss* by inserting a cross-reference to *new section IZ 8*. *Subclause (3)* inserts a new definition of *COVID-19 New Zealanders Stranded Overseas Support Programme*, which is used in several new definitions of various forms of assistance granted under that programme. *Subclause (4)* amends the definition of *dependent child* to ensure that a child for whom special assistance is being paid under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an orphan's benefit or an unsupported child's benefit is not included as a dependent child for the purposes of certain Working for Families tax credits. *Subclause (5)* amends the definition of *financially independent* to ensure that a person receiving special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to New Zealand superannuation or a veteran's pension is considered financially independent, just as they would be if they were receiving their usual payments. *Subclause (6)* amends the definition of *income-tested benefit* to add main benefit equivalent assistance to the list of benefits that are within the meaning of that term. *Subclause (7)* inserts a new definition of *main benefit equivalent assistance*, which covers special assistance granted under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a main benefit. *Subclause (8)* amends the definition of *New Zealand superannuation* to include New Zealand superannuation equivalent assistance within the meaning of that term. *Subclause (9)* inserts a new definition of *New Zealand superannuation equivalent assistance*, which is used in the amendments to section CW 33 and the definition of *financially independent*, and covers special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to New Zealand superannuation. *Subclause (10)* inserts a new definition of *orphan's benefit* to ensure orphan's benefit equivalent assistance is covered by that term. *Subclause (11)* inserts a new definition of *orphan's benefit equivalent assistance*, which covers special assistance granted under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an orphan's benefit. *Subclause (12)* inserts a new definition of *small business cash-flow loan* to support the changes to the Tax Administration Act 1994. *Subclause (13)* inserts a new definition of *unsupported child's benefit* to ensure unsupported child's benefit equivalent assistance is covered by that term. *Subclause (14)* inserts a new definition of *unsupported child's benefit equivalent assistance*, which covers special assistance granted under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an unsupported child's benefit. *Subclause (15)* replaces the definition of *veteran's pension* to include veteran's pension equivalent assistance within the meaning of that term. *Subclause (16)* inserts a new definition of *veteran's pension equivalent assistance*, which is used in the amendments to section CW 33 and the definition of *financially independent*, and covers special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a veteran's pension.

Tax Administration Act 1994 amended

Clause 16 sets out the clauses that amend the Tax Administration Act 1994.

Clause 17 amends section 3 by amending the definition of *disputable decision* to provide that a decision to make, or a decision to decline to make, a variation under *new section 6I* is not a disputable decision. In addition a decision to grant or to decline to grant a loan under the small business cashflow scheme under *new section 7AA* is not a disputable decision.

Clause 18 inserts a *new heading and new sections 6H and 6I* to provide the Commissioner with a discretion to vary a due date or other time limit, or a procedural or administrative requirement in a provision of an Inland Revenue Act, when compliance with the provision becomes impossible, impractical, or unreasonable in the circumstances arising from COVID-19 response measures or as a consequence of COVID-19. A person may choose whether or not to apply the variation.

Clause 19 inserts *new section 7AA* to authorise the Commissioner to make loans under the small business cashflow scheme to eligible persons who enter into loan contracts with the Commissioner.

Clause 20 amends section 80KK to remove a redundant reference to the Social Security Act 1964 and a reference to the Social Security Act 2018 that will become redundant as a consequence of inserting definitions of *orphan's benefit* and *unsupported child's benefit* into the Income Tax Act 2007.

Clause 21 inserts *new section 113G* to extend the time limit for a reassessment of the earlier of 2 tax years affected by an election under *new section 1Z 8* of the Income Tax Act 2007. The earlier tax year may be reassessed within the same time limit as the later tax year.

Clause 22 amends section 183ABAB so that the Commissioner's discretion to remit a payment of use of money interest under that section does not include a power to remit interest arising from a failure to elect under *new section 1Z 8* of the Income Tax Act 2007 an amount that is allowed by that section.

Clause 23 amends schedule 7 (Disclosure Rules) by inserting a *new clause 45B* for information exchanges with the Ministry of Social Development for the purposes of administering the small business cashflow scheme.

Child Support Act 1991 amended

Clause 24 sets out the clauses that amend the Child Support Act 1991.

Clause 25 amends section 2. *Subclause (1)* inserts a new definition of *COVID-19 New Zealanders Stranded Overseas Support Programme*, which is used in several proposed amendments to the Act. *Subclause (2)* amends the definition of *social security benefit* to include within the meaning of that term special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a benefit of a kind already covered by that term.

Clause 26 amends section 9 to include special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an unsupported child's benefit within the meaning of *unsupported child's benefit* for the purposes of that section.

Clause 27 amends section 27 to ensure that an election to end a formula assessment in respect of a child does not qualify for acceptance if a recognised carer of the child is receiving special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a benefit of a kind that is covered by the existing definition of *social security benefit*.

Clause 28 amends section 35A to ensure that a person receiving special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a supported living payment continues to receive the higher of the 2 rates of living allowance. A parent's living allowance is subtracted from their adjusted taxable income when calculating their child support income amount.

Clause 29 amends section 142 to include special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an unsupported child's benefit within the meaning of *unsupported child's benefit* for the purposes of that section and section 143.

Part 2

Amendments to other Acts

Animal Welfare Amendment Act (No 2) 2015 amended

Clause 30 provides that *clause 27* amends the Animal Welfare Amendment Act (No 2) 2015.

Clause 31 amends the commencement date for certain provisions of the Animal Welfare Amendment Act (No 2) 2015.

Under section 2(1) of that Act, sections 5(1), (5), and (6), 9, 11(2), 13(1), 14 to 19, 23 to 25, 26, 29(1), 56, and 68(2) of that Act come into force on the earlier of a date appointed by the Governor-General by Order in Council and 5 years after the date on which the Act received the Royal assent (which is 9 May 2020). Sections 23 to 26 were brought into force on 25 August 2016 by the Animal Welfare Amendment Act (No 2) 2015 Commencement Order 2016. Sections 5(5) and 56 are to come into force on 9 May 2020.

The remaining provisions amend the Animal Welfare Act 1999 by removing existing rules about who may carry out different types of surgical procedures on animals and replacing them with new criteria for determining whether a procedure on an animal is a significant surgical procedure, and restricting the performance of such procedures to veterinarians, veterinary students under supervision, or persons specified in regulations. Those provisions are due to come into force on 9 May 2020.

Clause 31(1) retains the commencement date for sections 5(5), 23 to 26, and 56 as being on the earlier of a date appointed by the Governor-General by Order in Council and 5 years after the date on which the Act received the Royal assent.

Clause 31(2) extends the commencement date for sections 5(1) and (6), 9, 11(2), 13(1), 14 to 19, 29(1), and 68(2) by up to 12 months, to 9 May 2021.

Clause 31(3) makes it clear that one or more Orders in Council may be made appointing different dates for different provisions to come into force.

Credit Contracts Legislation Amendment Act 2019 amended

Clause 32 sets out the clauses that amend the Credit Contracts Legislation Amendment Act 2019.

Clause 33 has 2 effects as follows:

- first, it brings forward, from 1 June 2020 to the day after this Bill receives the Royal assent, the commencement date of certain protections relating to high-cost consumer credit contracts (notably the rule that the costs of borrowing must not exceed the loan advance and rules around compound interest and default fees);
- secondly, it defers, from 1 April 2021 to 1 April 2023, the backstop commencement date for all of the other provisions of the CCLAA that have not yet been brought into force.

Clause 34 makes consequential changes to the transitional provisions in Schedule 2.

Consequential amendments to Schedule 1AA of Credit Contracts and Consumer Finance Act 2003

Clause 35 makes consequential amendments to Schedule 1AA of the Credit Contracts and Consumer Finance Act 2003.

Public Finance Act 1989, Crown Entities Act 2004, and State-Owned Enterprises Act 1986 amended

Clause 36 provides that *clause 37* amends the Public Finance Act 1989.

Clause 38 sets out the clauses that amend the Crown Entities Act 2004.

Clause 41 provides that *clause 42* amends the State-Owned Enterprises Act 1986.

In accordance with those Acts, various entities are required to prepare and provide certain documents over the next few months. Affected entities include departments, Offices of Parliament, companies listed in Schedule 4A of the Public Finance Act 1989, some organisations listed in Schedule 4 of the Public Finance Act 1989, Crown entities, and State-owned enterprises.

It is anticipated that, because of the effects of COVID-19, some of those entities will be unable to, or will face significant difficulties if required to, prepare and provide the documents as provided for in those Acts.

The amendments in *clauses 37, 39, 40, and 42* allow for Ministers to extend the time for meeting those requirements by up to 3 months if the relevant Minister (or Ministers) are satisfied that, as a consequence of the effects of COVID-19,—

- the entity is unable to, or will experience significant difficulties if required to, provide the document on time; or
- the entity is unable to adequately assess how its future operations will be affected and the extension will enable it to provide a better document than it would be able to if the extension were not granted.

An extension of up to 3 months may be granted by the relevant Minister (or Ministers) for the following:

- information on strategic intentions that departments and Offices of Parliament are required to provide under section 38 of the Public Finance Act 1989;
- statements of intent that Crown entities and companies listed in Schedule 4A of the Public Finance Act 1989 are required to provide under section 139 of the Crown Entities Act 2004;
- statements of performance expectations that Crown entities, companies listed in Schedule 4A of the Public Finance Act 1989, and some organisations listed in Schedule 4 of the Public Finance Act 1989 are required to provide under section 149C of the Crown Entities Act 2004;
- statements of corporate intent that State enterprises are required to deliver under section 14 of the State-Owned Enterprises Act 1986.

Hon Stuart Nash

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act **2020**.

2 Commencement

- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided otherwise in this section.
- (2) **Sections 17 and 18** come into force on 17 March 2020.
- (3) **Sections 7, 8, 9, 10, 11, 13, 14, 15(2), 21, and 22** come into force on 15 April 2020. 5
- (4) **Sections 4, 12, 15(3), (4), (5), (6), (7), (8), (9), (10), (11), (13), (14), (15), and (16), 20, 25, 26, 27, 28, and 29** come into force on 20 April 2020.

Part 1

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Amendments to Inland Revenue Acts

Income Tax Act 2007 amended

3 Income Tax Act 2007

Sections 4 to 15 amend the Income Tax Act 2007.

4 Section CW 33 amended (Allowances and benefits)

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- (1) Replace section CW 33(1)(a) with:

(a) a monetary benefit under the Social Security Act 2018, except any of the following kinds:

(i) an income-tested benefit:

(ii) a payment of New Zealand superannuation equivalent assistance:

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(iii) a payment of veteran's pension equivalent assistance:

- (2) In section CW 33, list of defined terms, insert "New Zealand superannuation equivalent assistance" and "veteran's pension equivalent assistance".

5 Section DF 1 amended (Government grants to businesses)

- (1) After section DF 1(1)(c), insert:

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(cb) the payment is not an amount of a loan under the small business cash-flow scheme under **section 7AA** of the Tax Administration Act 1994; and

- (2) In section DF 1, in the list of defined terms, insert "small business cashflow scheme".

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6 Section EW 45 amended (Consideration when debtor released from obligation)

- (1) In section EW 45(1)(b)(iii), replace "subsection (2)." with "subsection (2); or", and insert:

- (iv) the terms of a loan under the small business cashflow scheme under **section 7AA** of the Tax Administration Act 1994.
- (2) In section EW 45, in the list of defined terms, insert “small business cashflow scheme”.
- 7 New section GB 3B inserted (Arrangements for carrying back net losses: companies)** 5
- After section GB 3, insert:
- GB 3B Arrangements for carrying back net losses: companies**
- When this section applies*
- (1) This section applies when— 10
- (a) a share in a company (the **loss company**) or another company has been subject to an arrangement, including an arrangement directly or indirectly altering rights attached to the shares; and
- (b) the arrangement allows the loss company to meet the requirements of **section IZ 8** (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year); and 15
- (c) a purpose of the arrangement is to defeat the intent and application of **section IZ 8**.
- Company treated as not meeting requirements*
- (2) The loss company is treated as not meeting the requirements of **section IZ 8** in relation to the shares. 20
- Defined in this Act: arrangement, company, share
- 8 Section GB 4 amended (Arrangements for grouping tax losses: companies)**
- (1) In section GB 4(1)(b), replace “section IZ 7” with “sections IZ 7 and **IZ 8**”.
- (2) In section GB 4(2), replace “section IZ 7” with “section IZ 7 or **IZ 8**”. 25
- 9 Section IC 9 amended (Date for payment and notice to Commissioner)**
- (1) After section IC 9(3), insert:
- Exception for payment arising from election under **section IZ 8***
- (4) Despite subsection (3), for a company that is a member of a group of companies and a tax year in which the company uses a tax loss that arises from an election by another group member under **section IZ 8** (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year) and is made available by the other group member, the extended return date is determined using the tax year in which the net loss affected by the election arises for the other group member. 30
- (2) In section IC 9, list of defined terms, insert “group of companies” and “net loss”. 35

10 Section ID 1 amended (Treatment of tax losses by consolidated groups)

In section ID 1(1), after “losses)” insert “and **section IZ 8** (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year)”.

11 New section IZ 8 inserted (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year)

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(1) After section IZ 7, insert:

IZ 8 Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year

Terms used in this section

(1) This section provides that a person who has taxable income in the 2018–19 or 2019–20 income year and a net loss in the following income year may choose to reduce the taxable income in the first year by an amount, which is treated as being available tax loss that can be used in the first income year, and subtracting the same amount from the net loss that would otherwise be available in the second income year, subject to restrictions that are expressed in terms of—

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(a) the **offset years**, which refers to the period of 2 years that is affected by the election and begins with either the 2018–19 or the 2019–20 income year:

(b) the **taxable income year**, which refers to the first of the offset years:

(c) the **initial taxable income**, which refers to the amount of taxable income given by **subsection (2)(a)** for the person and the taxable income year:

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(d) the **net loss year**, which refers to the second of the offset years:

(e) the **elected amount**, which refers to the amount by which an election under this section reduces both the initial taxable income and the net loss that, in the absence of the election, the person would have in the net loss year:

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(f) the **offset ownership period**, which refers to the period in the offset years for which a person that is a company meets requirements relating to continuity of ownership for carrying forward loss balances from 1 tax year to the next:

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(g) the **income ownership period**, which refers to the part of the offset ownership period that occurs in the taxable income year:

(h) the **loss ownership period**, which refers to the part of the offset ownership period that occurs in the net loss year:

(i) the **group loss excess**, which is the amount of the excess of net loss given by **subsection (3)(b)** for the members of a wholly-owned group of companies and the loss ownership period.

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Who may make election under this section: general rule

- (2) A person, other than a person who is a member of a wholly-owned group of companies during the offset ownership period, may make an election under this section for the period consisting of 2 income years beginning with the 2018–19 or the 2019–2020 income year if,—
- (a) in the absence of an election under this section, the person would have an amount of taxable income remaining in the taxable income year after subtracting the total amount of charitable donations for which the person has a tax credit for the taxable year under subpart LD (Tax credits for gifts and donations); and
 - (b) in the absence of an election under this section, the person would have a net loss in the net loss year; and
 - (c) the person is not a qualifying individual, as defined in section 3 of the Tax Administration Act 1994, in the net loss year and is not a multi-rate PIE in the offset years; and
 - (d) when the person is a company, the person meets the requirements relating to continuity of ownership given by section IA 5 or IP 3 (which give the requirements for companies to carry forward loss balances) during the offset ownership period.

Who may make election under this section: rule for member of wholly-owned group

- (3) A person who is a member of a wholly-owned group of companies during the offset ownership period may make an election under this section for the offset years if,—
- (a) in the absence of an election under this section, the person would have a net loss in the net loss year; and
 - (b) in the absence of an election under this section, an excess of net loss would remain for the loss ownership period if the total amount of the net loss of the person and the other group members were reduced by the total amount of the net income of the person and the other group members for which the other group members have not used non-refundable tax credits to meet income tax liabilities.
 - (c) the person meets the requirements relating to continuity of ownership given by section IA 5 or IP 3 during the offset ownership period.

Making election

- (4) The person makes the election by including the elected amount, which must not exceed the amount given for the person by **subsection (5), (6), or (7)**, as an available tax loss in calculating the person’s taxable income for the taxable income year, in—
- (a) a return of income for the taxable income year; or

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- (b) a request that the Commissioner amend under section 113 of the Tax Administration Act 1994 the assessment for the taxable income year.
- Effect of election: person other than company*
- (5) If the person is not a company, the person's net loss for the net loss year is reduced, and the person's available tax loss for the taxable income year is increased, by an amount that is the smallest of— 5
- (a) the initial taxable income referred to in **subsection (2)(a)**;
 - (b) the amount of the net loss referred to in **subsection (2)(b)**;
 - (c) the elected amount.
- Effect of election: company not in group* 10
- (6) If the person is a company, other than a company that is a member of a group of companies at a time in the offset ownership period, the person's net loss for the net loss year is reduced, and the person's available tax loss for the taxable income year is increased, by an amount that is the smallest of—
- (a) the initial taxable income referred to in **subsection (2)(a)** 15
 - (b) the amount of the net income of the person for the income ownership period;
 - (c) the amount of the net loss referred to in **subsection (2)(b)**;
 - (d) the amount of the net loss of the person for the loss ownership period;
 - (e) the elected amount. 20
- Effect of election: member of group of companies*
- (7) If the person is a member of a group of companies at a time in the offset ownership period, the person's net loss for the loss ownership period is reduced, and the person's available tax loss for the income ownership period is increased, by an amount that is the smallest of— 25
- (a) the total amount of—
 - (i) the smaller of the initial taxable income referred to in **subsection (2)(a)** and the net income of the person for the income ownership period;
 - (ii) the part of the elected amount that is made available under subparts IC and IP (which relate to the use and grouping of tax losses) to other members of the group of companies in the taxable income year: 30
 - (b) if the person is a member of a wholly-owned group in the loss ownership period, the group loss excess referred to in **subsection (3)(b)** reduced by the total amount of the reductions in net loss for the period for the other members of the group from elections under this section: 35
 - (c) the elected amount.

Application of subparts IC and IP to amounts made available to members of group

- (8) In the application of subparts IC and IP to the making available by a person, to another member of a group of companies, of an amount of available tax loss arising for the person under **subsection (7)**,— 5
- (a) the amount of available tax loss that exceeds the person’s initial taxable income is a tax loss for the taxable income year for the purposes of section IC 1 (Company A making tax loss available to company B):
 - (b) the commonality period referred to in section IC 6 (Common ownership for period) is the period consisting of the offset years: 10
 - (c) the requirements in section IP 4(2)(d) and (4) and section IP 5 (which relate to breaches of continuity or commonality requirements) are not applied
 - (d) the requirements in section IP 4(2)(a), (ab), and (c) (Breach in income year in which tax loss component arises) are replaced by the requirements given by **subsection (9)**. 15

Replacement requirements in applying section IP 4(2)

- (9) The replacement requirements in section IP 4(2) are—
- (a) the net loss giving rise to the available tax loss arises in the portion of the loss ownership period that is included in the common span; and 20
 - (ab) the amount of the available tax loss is no more than the net income that the group company derives in the portion of the income ownership period that is included in the common span; and
 - (c) the person and the group company provide the Commissioner with adequate financial statements under section IP 6 (Financial statements required). 25

When allocation of net loss effective

- (10) The increase in the person’s available tax loss for the taxable income year is not effective until the person—
- (a) files a return of income for the taxable income year that includes a figure for the elected amount or an updated figure replacing a figure for the elected amount; or 30
 - (b) makes a request that the Commissioner amend under section 113 of the Tax Administration Act 1994 the assessment for the taxable income year based on a figure or an updated figure for the elected amount. 35

Requests required for some amended assessments

- (11) A person who makes an election under this section must make a request that the Commissioner amend under section 113 of the Tax Administration Act 1994 the assessment for the taxable income year if the elected amount used in

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- the most recent assessment of that income year exceeds the amount permitted by this section in the return of income for the net loss year.
- Accounting for part years in ownership continuity period*
- (12) If the offset ownership period for a company includes a part, but not all, of an income year, the company must provide to the Commissioner adequate financial statements for the relevant part of the income year complying with the requirements of sections IP 3(2) and (4) (Continuity breach: tax loss components of companies carried forward) and IP 6. 5
- Defined in this Act: assessment, available tax loss, Commissioner, company, continuity period, deduction, group of companies, ICA company, imputation credit account, income, income tax liability, income year, multi-rate PIE, net income, net loss, non-refundable tax credit, qualifying individual, return of income, tax loss, tax return, tax year, taxable income, wholly-owned group of companies 10
- (2) **Subsection (1)** applies for the 2018–19 to 2020–21 income years.
- 12 Section MD 6 amended (Second requirement: principal care)** 15
- (1) In section MD 6(2), delete “under section 43 or 46 of the Social Security Act 2018”.
- (2) In section MD 6, list of defined terms, insert “orphan’s benefit” and “unsupported child’s benefit”.
- 13 Section RC 7 amended (Estimation method)** 20
- (1) After section RC 7(3), insert:
- Exception for person making election under **section IZ 8***
- (3B) A person, including a person who otherwise does not use the estimation method in the tax year, who makes an election under **section IZ 8** (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year), and a shareholder-employee of such a person, may make or revise an estimate made under subsection (2), for the tax year corresponding to the income year referred to in **section IZ 8** as the taxable income year, before the earlier of the date on which the person files the return of income for the tax year and the date on which the return is due. 25 30
- (2) In section RC 7, list of defined terms, insert “income year”, “return”, “return of income”, and “shareholder-employee”.
- (3) **Subsection (1)** applies for the 2018–19 to 2020–21 income years.
- 14 Section RM 10 amended (Using refund to satisfy tax liability)**
- In section RM 10(4), after “RM 8”, insert “, or arising from an election under **section IZ 8** (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year),”. 35
- 15 Section YA 1 amended (Definitions)**
- (1) This section amends section YA 1.

- (2) In the definition of **available tax loss**,—
- (a) in paragraph (d), replace “income” with “income:”:
 - (b) after paragraph (d), insert:
 - (e) an amount treated as being an amount of available tax loss under **section 1Z 8** (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year) for a tax year referred to in that section as the taxable income year 5
- (3) Insert, in appropriate alphabetical order:
- COVID-19 New Zealanders Stranded Overseas Support Programme** means the welfare programme of that name approved and established under section 101 of the Social Security Act 2018 on 17 April 2020 10
- (4) In the definition of **dependent child**, paragraph (b)(ii), delete “under section 43 or 46 of the Social Security Act 2018”.
- (5) In the definition of **financially independent**,—
- (a) in paragraph (d), replace “2018” with “2018; or”: 15
 - (b) after paragraph (d), insert:
 - (e) receiving New Zealand superannuation equivalent assistance or veteran’s pension equivalent assistance
- (6) In the definition of **income-tested benefit**, after paragraph (f), insert:
- (g) main benefit equivalent assistance 20
- (7) Insert, in appropriate alphabetical order:
- main benefit equivalent assistance** means special assistance granted under—
- (a) clause 9 of the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a main benefit, as defined in schedule 2 of the Social Security Act 2018; or 25
 - (b) clause 11 of that programme
- (8) In the definition of **New Zealand superannuation**, replace paragraph (a) with:
- (a) means any of the following: 30
 - (i) New Zealand superannuation payable under Part 1 of the New Zealand Superannuation and Retirement Income Act 2001:
 - (ii) New Zealand superannuation equivalent assistance; and
- (9) Insert, in appropriate alphabetical order:
- New Zealand superannuation equivalent assistance** means special assistance granted under clause 9 or 10 of the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to New Zealand superannuation, ignoring **paragraph (a)(ii)** of the definition of **New Zealand superannuation** 35
- (10) Insert, in appropriate alphabetical order:

- orphan's benefit** means any of the following:
- (a) an orphan's benefit payable under section 43 of the Social Security Act 2018:
- (b) orphan's benefit equivalent assistance
- (11) Insert, in appropriate alphabetical order: 5
- orphan's benefit equivalent assistance** means special assistance granted under clause 9 or 12 of the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an orphan's benefit payable under section 43 of the Social Security Act 2018
- (12) Insert, in appropriate alphabetical order: 10
- small business cashflow scheme** means the Small Business Cashflow (Loan) Scheme established by the Crown to provide loans to assist small-to-medium businesses in the circumstances arising from the continuing impact of COVID-19 related measures or circumstances
- (13) Insert, in appropriate alphabetical order: 15
- unsupported child's benefit** means any of the following:
- (a) an unsupported child's benefit payable under section 46 of the Social Security Act 2018:
- (b) unsupported child's benefit equivalent assistance
- (14) Insert, in appropriate alphabetical order: 20
- unsupported child's benefit equivalent assistance** means special assistance granted under clause 9 or 12 of the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an unsupported child's benefit payable under section 46 of the Social Security Act 2018
- (15) Replace the definition of **veteran's pension** with: 25
- veteran's pension** means any of the following:
- (a) a veteran's pension, other than a portable veteran's pension, paid or payable under Part 6 of the Veterans' Support Act 2014:
- (b) veteran's pension equivalent assistance
- (16) Insert, in appropriate alphabetical order: 30
- veteran's pension equivalent assistance** means special assistance granted under clause 9 or 10 of the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a veteran's pension, ignoring **paragraph (b)** of the definition of **veteran's pension**
- Tax Administration Act 1994 amended*** 35
- 16 Tax Administration Act 1994**
- Sections 17 to 23** amend the Tax Administration Act 1994.

17 Section 3 amended (Interpretation)

In section 3(1), definition of **disputable decision**, paragraph (b)(iv), replace “challenge notice” with “challenge notice; or”, and insert:

- (v) to issue, or to decline to issue, a Commissioner’s COVID-19 response variation under **section 6I**; or
- (vi) to grant, or to decline to grant, a loan under the small business cashflow scheme under **section 7AA**

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18 New heading and new sections 6H and 6I inserted

After section 6G, insert:

COVID-19 response variations

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6H COVID-19 response: powers to vary provisions of Inland Revenue Acts

Commissioner’s discretionary power

- (1) **Section 6I** provides the Commissioner with a discretionary power to extend a due date, deadline, time period, or timeframe set out in an Inland Revenue Act, or to vary a procedural or administrative requirement of an Inland Revenue Act, to apply in certain circumstances and for a limited time.

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Purpose of section 6I

- (2) The purpose of **section 6I** is to provide the Commissioner with some flexibility to mitigate the effect of a provision of the Inland Revenue Acts when compliance is impossible, impractical, or unreasonable for a person or a class of persons in circumstances arising either from the imposition of COVID-19 response measures or as a consequence of COVID-19.

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Supplementary discretionary power

- (3) The discretionary power to make a variation under **section 6I** supplements the powers of the Commissioner under the provisions of this Act. The power to vary a provision is intended to be used only when the Commissioner considers that an appropriate outcome is not possible or is difficult to achieve under the terms of an existing provision.

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Application of section 6I

- (4) **Section 6I** applies in relation to a variation of a provision for some or all of the period starting on 17 March 2020 and ending on 30 September 2021. However, the Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, extend the application of **section 6I** if it is reasonably necessary in the circumstances because of the continuing impact of COVID-19 related measures or circumstances.

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Extended meaning of Inland Revenue Acts

- (5) For the purpose of this section and **section 6I**, Inland Revenue Acts includes the Unclaimed Money Act 1971.

6I	COVID-19 response: Commissioner's variations	
	<i>Power to vary</i>	
(1)	The Commissioner may vary the application of a provision in an Inland Revenue Act by—	
(a)	extending a due date, deadline, time period, or timeframe by, within, or in relation to which—	5
(i)	a person must comply with a requirement set out in the provision:	
(ii)	a person must make an election under the provision:	
(iii)	a person's entitlements, rights, or obligations are affected:	
(b)	modifying a procedural or administrative requirement that a person must meet under the provision, <i>for example</i> , modifying the nature or form of information or action required under the provision.	10
	<i>Person treated as meeting requirements</i>	
(2)	A person who complies with a variation made under this section is treated as having met their requirements under the relevant Act.	15
	<i>General application</i>	
(3)	A variation made under subsection (1) applies generally unless it is expressly stated that the variation—	
(a)	applies to a particular class of persons or circumstances; or	
(b)	requires certain conditions to be met for the variation to apply.	20
	<i>Optional application</i>	
(4)	Despite subsection (3) , a person to whom a variation is available may choose whether or not to apply the variation by taking a tax position, <i>for example</i> , in a return of income, or by informing the Commissioner of their election. If the person chooses not to apply a variation, the law applies as if the variation did not apply in relation to the person.	25
	<i>Publication</i>	
(5)	The Commissioner must publish a variation made under this section in a manner chosen by the Commissioner.	
19	New section 7AA inserted (Authorisation to make payments under small business cashflow scheme)	30
	After section 7, insert:	
7AA	Authorisation to make payments under small business cashflow loan scheme	
(1)	The Commissioner, on behalf of the Crown, may grant a loan under the small business cashflow scheme (the scheme) to a person who—	35
(a)	meets the eligibility requirements for a loan under the scheme; and	

- (b) makes a loan application to the Commissioner; and
(c) enters into a loan contract with the Commissioner.
- (2) For the purposes of **subsection (1)(b)**, the Commissioner must publish the eligibility requirements for a loan under the scheme on an internet site administered by the Commissioner. 5
- (3) The person in whose name the loan application is made—
(a) must provide the information to the Commissioner required by the loan contract; and
(b) is bound by the terms of the loan contract and must pay or repay all amounts payable by the person under the loan contract at the times and in the manner provided in the loan contract. 10
- (4) If a person who receives a payment from the Commissioner does not meet the required eligibility requirements, the person must repay the total amount to the Commissioner immediately.
- (5) A loan contract under this section is not a credit contract or a consumer credit contract for the purposes of the Credit Contracts and Consumer Finance Act 2003. 15
- (6) For the purposes of this section,—
loan contract means a loan contract or agreement that—
(a) is provided by or on behalf of the Commissioner to a person in whose name a loan application has been made; and 20
(b) records the terms on which a loan under the small business cashflow scheme is, or will be, made
small business cashflow scheme means the Small Business Cashflow (Loan) Scheme established by the Crown to provide loans to assist small-to-medium businesses in the circumstances arising from the continuing impact of COVID-19 related measures or circumstances. 25
- 20 Section 80KK amended (Payment by instalment of family tax credit and Best Start tax credit (without abatement))**
In section 80KK(3)(a)(i), delete “paid or payable under the Social Security Act 1964 or the Social Security Act 2018”. 30
- 21 New section 113G inserted (Amended assessments: tax year to which net loss carried back under section 1Z 8)**
After section 113F, insert:
- 113G Amended assessments: tax year to which net loss carried back under section 1Z 8** 35
(1) This section applies if—

(a)	a person elects to carry back a net loss from a tax year (the loss year) to the preceding tax year under section IZ 8 of the Income Tax Act 2007; and	
(b)	the Commissioner amends the assessment for the loss year because the person’s assessment for the loss year is based on an amount for the net loss carried back that does not meet the requirements of that section.	5
(2)	Despite the time bar, the Commissioner may amend the assessment for the tax year preceding the loss year at the same time as the Commissioner amends the assessment for the loss year.	
22	Section 183ABAB amended (Remission for taxpayers affected by COVID-19)	10
(1)	In section 183ABAB(1),—	
(a)	in paragraph (c), replace “due date.” with “due date; and”:	
(b)	after paragraph (c), insert:	
(d)	the requirement for the payment does not arise from an election under section IZ 8 of the Income Tax Act 2007 by the taxpayer, or by a company in the same group of companies as the taxpayer.	15
(2)	Subsection (1) applies for the 2018–19 to 2020–21 income years.	
23	Schedule 7 amended (Disclosure Rules)	
	In schedule 7, after clause 45, insert:	20
45B	Social Development: wage subsidy scheme information	
(1)	The purpose of this clause is to facilitate the exchange of information between the Inland Revenue Department and the Ministry of Social Development for the purpose of the administration by the Commissioner of the small business cashflow scheme.	25
(2)	For the purposes of this clause, the chief executive of the Ministry of Social Development may from time to time provide the Commissioner with information relating to the wage subsidy scheme administered by the Ministry.	
(3)	The Commissioner may use the information supplied under this clause in connection with the exercise or performance of any of the Commissioner’s duties, powers, or functions under the Inland Revenue Acts.	30
(4)	For the purposes of this section,—	
	small business cashflow scheme means the Small Business Cashflow (Loan) Scheme established by the Crown to provide loans to assist small-to-medium businesses in the circumstances arising from the continuing impact of COVID-19 related measures or circumstances	35

wage subsidy scheme means the subsidy scheme that is established as part of the Government’s COVID-19 response measures and which the Ministry administers on behalf of the Government.

Child Support Act 1991 amended

- 24 Child Support Act 1991** 5
Sections 25 to 29 amend the Child Support Act 1991.
- 25 Section 2 amended (Interpretation)**
- (1) In section 2(1), insert, in appropriate alphabetical order:
COVID-19 New Zealanders Stranded Overseas Support Programme means the welfare programme of that name approved and established under section 101 of the Social Security Act 2018 on 17 April 2020 10
- (2) In section 2(1), definition of **social security benefit**, after paragraph (d), insert:
- (e) special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to a benefit of a kind specified in paragraph (a), (c), or (d), but only if granted to a sole parent (within the meaning of that Act): 15
- (f) special assistance under that programme that corresponds to a benefit of the kind specified in paragraph (b)
- 26 Section 9 amended (Social security beneficiaries must apply for formula assessment)** 20
In section 9(8), insert, in appropriate alphabetical order:
unsupported child’s benefit includes special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an unsupported child’s benefit under section 46 of the Social Security Act 2018
- 27 Section 27 amended (Election by receiving carer to end formula assessment)** 25
- (1) In section 27(4)(a), replace “or (d)” with “(d), or **(e)**”.
- (2) In section 27(4)(b), replace “paragraph (b)” with “paragraph (b) or **(f)**”.
- (3) In section 27(4)(b), replace “unsupported child’s benefit” with “unsupported child’s benefit or special assistance”. 30
- 28 Section 35A amended (Living allowance)**
- Replace section 35A(2)(b) with:
- (b) for a person granted a supported living payment under subpart 4 of Part 2 of the Social Security Act 2018, special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to such a payment, or both, the rate set out in clause 1(c) of 35

Part 3 of Schedule 4 of that Act (ignoring the reference to Income Test 1).

29 Section 142 amended (Payment of formula assessment child support to receiving carers who are social security beneficiaries)

After section 142(3), insert:

- (4) In this section and section 143, **unsupported child's benefit** includes special assistance under the COVID-19 New Zealanders Stranded Overseas Support Programme that corresponds to an unsupported child's benefit under section 46 of the Social Security Act 2018.

Part 2

Amendments to other Acts

Animal Welfare Amendment Act (No 2) 2015 amended

30 Animal Welfare Amendment Act (No 2) 2015

Section 31 amends the Animal Welfare Amendment Act (No 2) 2015.

31 Section 2 amended (Commencement)

- (1) In section 2(1), replace “Sections 5(1), (5), and (6), 9, 11(2), 13(1), 14 to 19, 23 to 25, 26, 29(1), 56, and 68(2)” with “Sections 5(5), 23 to 26, and 56”.

- (2) After section 2(1), insert:

- (1A) Sections 5(1) and (6), 9, 11(2), 13(1), 14 to 19, 29(1), and 68(2) come into force on the earlier of the following:

- (a) a date appointed by the Governor-General by Order in Council:
(b) 9 May 2021.

- (3) In section 2(6), replace “subsection (1) or (2)” with “subsection (1), **(1A)**, or (2)”.

Credit Contracts Legislation Amendment Act 2019 amended

32 Credit Contracts Legislation Amendment Act 2019

Sections 33 and 34 amend the Credit Contracts Legislation Amendment Act 2019.

33 Section 2 amended (Commencement)

- (1) Replace section 2(2) with:

- (1A) The following provisions come into force on the day after the date on which the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act **2020** receives the Royal assent:

- (a) sections 6 and 7:

- (b) sections 16(2), 17(2), and 18(2):
- (c) section 25 to the extent that it relates to sections 45A, 45C, 45E, 45I, 45J, and 45K of the Credit Contracts and Consumer Finance Act 2003:
- (d) sections 34(1) and 37:
- (e) section 40(1): 5
- (f) section 49:
- (g) section 55(1) to the extent that it relates to new paragraphs (na) and (nb) of Schedule 1 of the Credit Contracts and Consumer Finance Act 2003:
- (h) section 55(3):
- (i) section 69(4) to the extent that it relates to regulation 6A of the Credit Contracts and Consumer Finance Regulations 2004. 10
- (2) The following provisions come into force on 1 June 2020:
 - (a) sections 3, 5(1), 8, 9(2), 10(2) and (6), 12, 13, 14, 15, 29, 44, 56, 57, and 58:
 - (b) sections 25, 55, and 69(4) to the extent that they have not previously been brought into force. 15

- (2) In section 2(4), replace “1 April 2021” with “1 April 2023”.

34 Schedule 2 amended

- (1) In Schedule 2, in the heading to clause 4, replace “1 April 2021” with “**commencement**”. 20
- (2) In Schedule 2, clause 4(1), replace “31 March 2021” with “the day before commencement”.
- (3) In Schedule 2, after clause 4(3), insert:
- (4) In this clause, **commencement** means the commencement of section 131B of the Credit Contracts and Consumer Finance Act 2003. 25

Consequential amendments to Schedule 1AA of Credit Contracts and Consumer Finance Act 2003

35 Consequential amendments to Schedule 1AA of Credit Contracts and Consumer Finance Act 2003

- (1) This section amends Schedule 1AA of the Credit Contracts and Consumer Finance Act 2003. 30
- (2) In clause 6, replace the definition of **commencement** with:
commencement, in relation to any provision of the 2019 Act, or any provision inserted into this Act by the 2019 Act, means the commencement of the relevant provision, as the case may be 35
- (3) In the heading to clause 9, delete “: 1 June 2020 commencement”.

- (4) In clause 10(1), example, replace “1 April 2021” with “commencement”.
- (5) In clause 10(8), example, replace “on 1 May 2021” with “on or after commencement”.
- (6) In the heading to clause 12, replace “**1 April 2021**” with “**commencement**”.
- (7) In clause 12(1) and (3)(b), replace “31 March 2021” with “the day before commencement of section 131B”. 5
- (8) In clause 12(2), replace “1 April 2021” with “commencement of section 131B”.
- (9) In clause 12(4), replace “1 February 2021” with “2 months before commencement of section 131B”. 10

Public Finance Act 1989 amended

36 Public Finance Act 1989

Section 37 amends the Public Finance Act 1989.

- 37 New section 41AA inserted (Minister may grant extension of time requirement to provide information on strategic intentions: COVID-19)** 15
- After section 41, insert:

41AA Minister may grant extension of time requirement to provide information on strategic intentions: COVID-19

- (1) If a department is due to provide information on strategic intentions for a period beginning on 1 July 2020, the responsible Minister may grant the department an extension, of up to 3 months, of the period specified in section 38(4)(a). 20
- (2) However, the responsible Minister must not grant an extension under **subsection (1)** unless the responsible Minister is satisfied that, as a consequence of the effects of COVID-19,— 25
- (a) the department is unable to, or will experience significant difficulties if required to, provide the information on or before 1 July 2020; or
- (b) the department is unable to adequately assess how its future operations will be affected and the extension will enable it to provide better information on strategic intentions than it would be able to if the extension were not granted. 30
- (3) If a department provides its information on strategic intentions after 1 July 2020 in reliance on an extension under this section, the information provided by the department must, despite section 38(2)(a), relate to the then current financial year and at least the following 3 financial years. 35
- (4) As soon as practicable after granting an extension, the responsible Minister must present to the House of Representatives notice of the extension and the responsible Minister’s reasons for granting it.

- (5) This section is repealed on 1 October 2020.

Crown Entities Act 2004 amended

38 Crown Entities Act 2004

Sections 39 and 40 amend the Crown Entities Act 2004.

39 New section 139C inserted (Responsible Minister may grant extension of time for requirement to provide statement of intent: COVID-19) 5

After section 139B, insert:

139C Responsible Minister may grant extension of time for requirement to provide statement of intent: COVID-19

- (1) If a Crown entity is due to provide a statement of intent for a period beginning on 1 July 2020, the responsible Minister may grant the Crown entity an extension, of up to 3 months, of the period specified in section 139(3). 10
- (2) However, the responsible Minister must not grant an extension unless the responsible Minister is satisfied that, as a consequence of the effects of COVID-19,— 15
- (a) the Crown entity is unable to, or will experience significant difficulties if required to, provide the information on or before 1 July 2020; or
- (b) the Crown entity is unable to adequately assess how its future operations will be affected and the extension will enable it to provide a better statement of intent than it would be able to if the extension were not granted. 20
- (3) If the responsible Minister grants an extension under this section.—
- (a) the time for providing a draft statement of intent to the responsible Minister under section 146(2)(a)(i) is extended by the same period; and
- (b) the entity must (despite section 146(2)(c)(i)) provide the final statement of intent to its responsible Minister as soon as practicable after receiving the responsible Minister’s comments (if any) but before the end of the period of the extension; and 25
- (c) the statement of intent must, if provided after 1 July 2020, relate to the then current financial year and at least the following 3 financial years (despite section 139(2)); and 30
- (d) the responsible Minister must, as soon as practicable after granting the extension, notify the Crown entity of the extension and the Minister’s reasons for granting it; and
- (e) the Crown entity must, as soon as practicable after receiving notice under **paragraph (d)**, publish notice of the extension, and the Minister’s reasons for granting it, on an Internet site maintained by or on behalf of the Crown entity; and 35

(f)	the Crown entity must include, in the next annual report that it provides to its responsible Minister for presentation to the House of Representatives under section 150, a statement of the extension and the Minister's reasons for granting it.	
(4)	This section is repealed on 1 October 2020.	5
40	New section 149CA inserted (Responsible Minister may grant extension of time for obligation to prepare statement of performance expectations: COVID-19)	
	After section 149C, insert:	
149CA	Responsible Minister may grant extension of time for obligation to prepare statement of performance expectations: COVID-19	10
(1)	A responsible Minister may grant an extension, of up to 3 months, for a Crown entity to prepare the Crown entity's statement of performance expectations that is due to be prepared for the financial year beginning on 1 July 2020.	
(2)	However, the responsible Minister must not grant an extension unless the responsible Minister is satisfied that, as a consequence of the effects of COVID-19,—	15
(a)	the Crown entity is unable to, or will experience significant difficulties if required to, prepare the statement of performance expectations before 1 July 2020; or	20
(b)	the Crown entity is unable to adequately assess how its operations in the forthcoming financial year will be affected and the extension will enable it to provide a better statement of performance expectations than it would be able to if the extension were not granted.	
(3)	If the responsible Minister grants an extension under this section,—	25
(a)	the time for providing a draft statement of performance expectations to the responsible Minister under section 149I(2)(a)(i) is extended by the same period; and	
(b)	the entity must (despite section 149I(2)(c)(i)) provide the final statement of performance expectations to its responsible Minister as soon as practicable after receiving the responsible Minister's comments (if any) but before the end of the period of the extension; and	30
(c)	the responsible Minister must, as soon as practicable after granting the extension, notify the Crown entity of the extension and the Minister's reasons for granting it; and	35
(d)	the Crown entity must, as soon as practicable after receiving notice under paragraph (c) , publish notice of the extension, and the Minister's reasons for granting it, on an Internet site maintained by or on behalf of the Crown entity; and	

- (e) the Crown entity must include, in the next annual report that it provides to its responsible Minister for presentation to the House of Representatives under section 150, a statement of the extension and the Minister's reasons for granting it.
- (4) This section is repealed on 1 October 2020. 5

State-Owned Enterprises Act 1986 amended

41 State-Owned Enterprises Act 1986

Section 42 amends the State-Owned Enterprises Act 1986.

42 New section 14A inserted (Shareholding Ministers may grant extension of time for delivery of statement of corporate intent: COVID-19) 10

After section 14, insert:

14A Shareholding Ministers may grant extension of time for delivery of statement of corporate intent: COVID-19

- (1) The shareholding Ministers of a State enterprise may grant an extension, of up to 3 months, for the State enterprise to deliver the completed statement of corporate intent relating to the financial year beginning on 1 July 2020 (and each of the immediately following 2 financial years) to the shareholding Ministers. 15
- (2) However, the shareholding Ministers must not grant an extension unless they are satisfied that, as a consequence of the effects of COVID-19,—
 - (a) the State enterprise is unable to, or will experience significant difficulties if required to, deliver the completed statement of corporate intent before 1 July 2020; or 20
 - (b) the State enterprise is unable to adequately assess how its future operations will be affected and the extension will enable it to provide a better statement of corporate intent than it would be able to if the extension were not granted. 25
- (3) If the shareholding Ministers grant an extension under this section—
 - (a) the time for providing a draft statement of corporate intent to the shareholding Ministers under section 14(1) is extended by the same period; and 30
 - (b) the board must (despite section 14(4)) consider comments on the draft statement of corporate intent that are made to it not later than 14 days before the new date by which the completed statement of corporate intent is to be delivered; and
 - (c) the statement of corporate intent must, if delivered after 1 July 2020, relate to the then current financial year and each of the immediately following 2 financial years (despite section 14(2)); and 35

- (d) the shareholding Ministers must, as soon as practicable after granting the extension, notify the State enterprise of the extension and the Ministers' reasons for granting it; and
 - (e) the State enterprise must, as soon as practicable after receiving notice under **paragraph (d)**, publish notice of the extension, and the Ministers' reasons for granting it, on an Internet site maintained by or on behalf of the State enterprise; and 5
 - (f) the State enterprise must include, in the next annual report that it provides to its responsible Minister for presentation to the House of Representatives under section 17(2), a statement of the extension and the shareholding Ministers' reasons for granting it. 10
- (4) This section is repealed on 1 October 2020.