



Companies (COVID-19—Business Debt Hibernation) Regulations 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 30th day of November 2020

Present:

The Right Hon Jacinda Ardern presiding in Council

These regulations are made under section 395B(1) and (6) of the Companies Act 1993—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Commerce and Consumer Affairs and the Minister of Finance made in accordance with section 395B(4) of that Act.

Contents

		Page
1	Title	2
2	Commencement	2
3	Interpretation	2
4	Ability to enter into BDH extended to 31 October 2021	2
5	Later date prescribed for purposes of director statement for entities that enter into BDH after 24 December 2020	2
6	Revocation	2

Regulations

1 Title

These regulations are the Companies (COVID-19—Business Debt Hibernation) Regulations 2020.

2 Commencement

These regulations come into force on 24 December 2020.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

BDH means business debt hibernation under Schedule 13

entity means an entity to which Schedule 13 applies (*see* clause 3 of that schedule)

Schedule 13 means Schedule 13 of the Companies Act 1993.

(2) For the purposes of these regulations, an entity is **in BDH** if the protections in Part 5 of Schedule 13 apply to the entity (*see* clause 4(4) of that schedule).

4 Ability to enter into BDH extended to 31 October 2021

This regulation prescribes, for the purposes of clause 3(3)(b) of Schedule 13, 31 October 2021 as the last date on which an entity may enter into BDH.

5 Later date prescribed for purposes of director statement for entities that enter into BDH after 24 December 2020

This regulation prescribes 31 July 2022 as the date for the purposes of clause 5(2)(c) of Schedule 13 for all entities other than entities that are in BDH on the date that this regulation comes into force.

6 Revocation

These regulations are revoked on the close of 31 May 2022.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 24 December 2020, prescribe 2 dates for the purposes of Schedule 13 of the Companies Act 1993 (**Schedule 13**). Schedule 13 enables certain entities affected by COVID-19 to enter into business debt hibernation

(BDH). Entities may now enter into BDH under that schedule up to the close of 31 October 2021 (*see regulation 4*).

The date prescribed for the purposes of clause 5(2)(c) of Schedule 13 (*see regulation 5*) does not apply for entities that are in BDH on 24 December 2020. For those entities, 30 September 2021 continues to apply for those purposes (*see clauses 5(3) and 17 of Schedule 13*).

Note that clause 8 of Schedule 13 provides that an entity may not enter into BDH more than once (unless a circumstance in clause 8(3) of that schedule applies).

Regulation 6 revokes these regulations on the close of 31 May 2022, which is when section 395A(3) of the Companies Act 1993 repeals Schedule 13.

Regulatory impact assessment

The Ministry of Business, Innovation, and Employment produced a regulatory impact assessment on 16 November 2020 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact assessment can be found at—

- <https://www.mbie.govt.nz/dmsdocument/12267-impact-summary-extension-of-business-debt-hibernation-scheme-proactiverelease-pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 3 December 2020.

These regulations are administered by the Ministry of Business, Innovation, and Employment.