

House of Representatives

# Supplementary Order Paper

Tuesday, 12 May 2020

COVID-19 Response (Further Management Measures) Legislation  
Bill

*Proposed amendments*

Hon Chris Hipkins, in Committee, to move the following amendments:

*Clause 2 replaced*

Replace clause 2 (page 4, lines 5 to 7) with:

**2 Commencement**

- (1) This Act comes into force on the day after the date on which it receives the Royal assent, except as provided in this section.
- (2) **Schedule 16A, Part 1, clause 2 and schedule 16A, Part 2, clause 8** come into force on 15 April 2020.
- (3) **Schedule 16A, Part 1, clauses 3 and 4, and schedule 16A, Part 2, clauses 6, 7, 9 and 10** come into force on 30 April 2020.

*New schedule 16A*

After schedule 16 (after page 127), insert:

**Schedule 16A**  
**Revenue**

## Part 1 Amendments to Income Tax Act 2007

### 1 Amendments to Income Tax Act 2007

This Part amends the Income Tax Act 2007.

### 2 Section IZ 8 amended (Election to use net loss for 2019–20 or 2020–21 year as tax loss in preceding year)

- (1) In section IZ 8(1), in the words before the paragraphs, replace “being available” with “being an available”.
- (2) In section IZ 8(2)(c), replace “section 3” with “section 3(1)”.
- (3) In section IZ 8(8)(c), replace “section IP 4(2)(d) and (4)” with “section IP 4(4)”.
- (4) In section IZ 8, list of defined terms, delete “qualifying individual”.

### 3 Section MB 13 amended (Family scheme income from other payments)

- (1) After section MB 13(2)(j), insert:  
(jb) a loan made under the small business cashflow scheme:
- (2) In section MB 13, in the list of defined terms, insert “small business cashflow scheme”.

### 4 Section YA 1 amended (Definitions)

- (1) This clause amends section YA 1.
- (2) In the definition of **exempt interest**, insert after paragraph (d):  
(db) payable in relation to a loan made under the small business cashflow scheme; or
- (3) In the definition of **small business cashflow scheme**, replace “established by the Crown” with “established and administered by the Crown”.

## Part 2 Amendments to Tax Administration Act 1994

### 5 Amendments to Tax Administration Act 1994

This Part amends the Tax Administration Act 1994.

### 6 Section 3 amended (Interpretation)

- In section 3(1), in the definition of **tax**, after paragraph (cb), insert:
- (cc) for the purposes of sections 6, 6A, 6B, 156 to 165, 174AA, 176, 177, and 177A to 177CA, includes an amount payable in

relation to a loan made under the small business cashflow scheme:

**7 Section 7AA amended (Authorisation to make payments under small business cashflow loan scheme)**

(1) After section 7AA(4), insert:

(4B) For the purposes of this section, the chief executive of the Ministry of Social Development is authorised to provide the Commissioner with any information relating to the wage subsidy scheme administered by the Ministry.

(4C) The Commissioner may use the information provided under **subsection (4B)** in connection with the exercise or performance of any of the Commissioner’s duties, powers, or functions under the Inland Revenue Acts.

(2) In section 7AA(6), replace the definition of **small business cashflow scheme** with:

**small business cashflow scheme** means the Small Business Cashflow (Loan) Scheme established and administered 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

**wage subsidy scheme** means a 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

**8 Section 120KBB amended (Interest for most standard method and some estimation method provisional taxpayers)**

Replace section 120KBB(1)(c) with:

(c) the provisional tax associates of the person that are liable to pay provisional tax—

(i) are interest concession provisional taxpayers:

(ii) use, for the tax year, the GST ratio method described in section RC 5(6) of the Income Tax Act 2007:

(iii) use, for the tax year, the estimation method described in section RC 7 of the Income Tax Act 2007, and have elected to use a net loss under section IZ 8 of that Act for the tax year; and

**9 Section 157 amended (Deduction of tax from payments due to defaulters)**

In section 157(10), in the definition of **income tax**, paragraph (i), replace “notice under section 101I(5) of the KiwiSaver Act 2006”

with “notice under section 101I(5) of the KiwiSaver Act 2006.”, and insert:

- (j) an amount payable in relation to a loan made under the small business cashflow scheme

## **10 Schedule 7 (Disclosure rules) amended**

Repeal schedule 7, part C, clause 45B.

### **Explanatory note**

This Supplementary Order Paper (SOP) proposes to insert a *Schedule 16A* into the *COVID-19 Response (Further Management Measures) Legislation Bill*, so as to provide amendments to the following Acts:

- Income Tax Act 2007:
- Tax Administration Act 1994.

The proposed amendments are to ensure that measures recently passed to provide relief to those that have been adversely economically affected by the COVID-19 outbreak work as intended.

The measures to be amended are the Small Business Cashflow (Loan) Scheme and the temporary tax loss carry-back regime. The relevant provisions relating to both measures were passed by the House on 30 April 2020, with the purpose of increasing the prospects of businesses surviving the COVID-19 outbreak.

#### *Small Business Cashflow (Loan) Scheme*

The Small Business Cashflow (Loan) Scheme assists eligible small to medium businesses that have been adversely affected by COVID-19.

The SOP proposes amendments to *sections MB 13 and YA 1 of the Income Tax Act 2007* and *sections 3, 7AA, 157, and schedule 7 of the Tax Administration Act 1994* to ensure that the Scheme works as intended. The amendments:

- ensure the information sharing provision between Inland Revenue and the Ministry of Social Development is wide enough for the purposes of the administration and enforcement of the loan scheme:
- permit Inland Revenue to use existing care and management, and debt management provisions in administering the scheme:
- ensure that interest under a loan is not subject to resident withholding tax:
- ensure that loan amounts are not counted as income for *Working for Families*.

#### *Temporary tax loss carry-back regime*

The temporary loss carry-back regime permits a taxpayer to carry back a loss from the 2019–20 or 2020–21 year to the prior year in order to claim a refund of tax paid, so as to mitigate the economic effect of the COVID-19 outbreak on those years.

The SOP proposes an amendment to *section 120KBB of the Tax Administration Act 1994* to ensure that the temporary loss carry-back regime does not adversely affect associated persons' provisional tax interest treatment.

The SOP also proposes minor cross-reference corrections and corrections to faults of expression in the temporary loss carry-back regime, in *section 1Z 8 of the Inland Revenue Act 2007*.

### **Departmental disclosure statement**

Inland Revenue is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. The disclosure statement provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2020&no=488&>