



8 May 2020

Committee Secretariat
Epidemic Response Committee
Parliament Buildings
Wellington 6160

By email: James.Picker@parliament.govt.nz

Dear James

Submission to the Epidemic Response Committee on the COVID-19 Response (Further Management Measures) Legislation Bill

Chartered Accountants Australia and New Zealand (CA ANZ) welcomes the opportunity to provide a submission to the Epidemic Response Committee on the COVID-19 Response (Further Management Measures) Legislation Bill (the Bill). The Appendix provides more information about CA ANZ.

We have focused our feedback on the following areas:

- Schedule 2 Part 2 clauses 12 – 14 and Schedule 4 of the Bill.
- Schedule 2 Part 9 clauses 33 - 34 and Schedule 2 Part 10 clauses 35 - 36 of the Bill.

Amendments made with respect to and introduction of the COVID-19 business debt hibernation regime

Part 2, Subpart 2 of Schedule 2 and Schedule 4 of the Bill establishes and makes consequential amendments with respect to the COVID-19 business debt hibernation scheme. We broadly support the introduction of this scheme. Upon reviewing both the Explanatory Note and the Bill, we note the COVID-19 business debt hibernation scheme is inherently complex and incorporates director penalties for non-compliance with specific clauses. Therefore, we consider it critical for users of the scheme to have the necessary guidance, forms and templates to enable compliance. We recommend Officials provide detailed guidance and templates on the scheme to help directors and creditors, particularly in smaller entities.

We welcome the release of a guide on the business debt hibernation scheme by Companies Office for professional users, who are responsible for updating client details on the Companies Office registers. However, given the complexity of the scheme, we consider further, more detailed guidance will also be required for this audience.

Amendments to the Insolvency Practitioners Regulation Act 2019 and Insolvency Practitioners Regulation (Amendments) Act 2019

Parts 9 and 10 of Schedule 2 of the Bill propose a change to the Insolvency Practitioners Regulation Act 2019 (IPR Act) and the Insolvency Practitioners Regulation (Amendments) Act 2019 (Amendment Act) to extend the “back stop” commencement date from 17 June 2020 to 1 June 2021.



We support these proposed amendments.

Both the IPR Act and the Amendment Act are scheduled to come into force on 17 June 2020. Neither currently provides scope for changing that date.

The licensing regime under the IPR Act is reliant on there being one or more accredited bodies in place before 17 June 2020. The New Zealand Institute of Chartered Accountants (NZICA) is the statutory body responsible for regulating New Zealand resident members of CA ANZ and is an existing accredited body under the Auditor Regulation Act 2011. NZICA intends to become an accredited body under the IPR Act and is preparing an accreditation application to be sent to the Registrar of Companies for consideration.

However, we note that some aspects of the licensing and accreditation regime have not yet been finalised, making implementation of the IPR Act by 17 June 2020 challenging. For example, we are awaiting regulations in respect of fees and levies and the Registrar of Companies has not yet finalised some aspects of the accreditation process, including its policy for accreditation.

In addition, we note that if an accredited body is unable to be appointed before 17 June 2020 insolvency practitioners will be unable to be appointed as liquidators, receivers, or administrators until such a body is appointed and insolvency practitioners are able to be licensed or benefit from the transitional provisions in the IPR Act. This will mean that no new insolvency engagements can commence. This includes secured creditors not being able to enforce their rights by appointing a receiver. The proposed amendment to the IPR Act eliminates these risks by providing some flexibility around commencement date.

CA ANZ supports the implementation of the IPR Act as it is an important step in providing for a professional, well-run insolvency profession in which the public can have trust and confidence. This is particularly important given the likely upturn in insolvency-related activity resulting from COVID-19. Given this importance, we consider that it would be appropriate to subsequently bring the commencement date forward by way of an Order in Council to 1 September 2020. However, we acknowledge that we will need to make submissions to the Registrar on this.

We do not wish to be heard on this submission. If you have any questions, please contact Gillian Hawkesby on gillian.hawkesby@charteredaccountantsanz.com or 04 462 0266.

Yours sincerely

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Appendix 1

About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand (CA ANZ) represents more than 125,000 financial professionals, supporting them to build value and make a difference to the businesses, organisations and communities in which they work and live. Around the world, Chartered Accountants are known for their integrity, financial skills, adaptability and the rigour of their professional training.

CA ANZ promotes the Chartered Accountant (CA) designation and high ethical standards, delivers world class services and life-long education to members and advocates for the public good. It protects the reputation of the designation by ensuring members continue to comply with a code of ethics, backed by a robust discipline process.

Its flagship CA Program, the pathway to becoming a Chartered Accountant, combines rigorous education with practical experience. Ongoing professional development helps members shape business decisions and remain relevant in a changing world.

It actively engages with governments, regulators and standard-setters on behalf of members and the profession to advocate in the public interest. Our thought leadership promotes prosperity in Australia and New Zealand.

CA ANZ is a founding member of the Global Accounting Alliance which is made up of 10 leading accounting bodies that together promote quality services, share information and collaborate on important international issues.