

# BUSINESS TRADING PROTECTION AND DEBT HIBERNATION MEASURES TO HELP BUSINESSES AFFECTED BY COVID-19

The COVID-19 (Economic Response) Act 2020, which came into force on 7 July 2020, introduces new temporary business trading protection and debt hibernation measures that will help local businesses continue to operate and avoid insolvency.

The Government is introducing 50 percent accelerated depreciation deductions for qualifying assets. The COVID-19 pandemic continues to have a detrimental effect on the global economy, with major impacts in the Cook Islands. A standstill in the local tourism sector has severely affected businesses as border restrictions remain in place, keeping visitors away. Entities of all sizes continue to experience revenue losses with a negative outlook for the near and mid-term.

Many businesses in the Cook Islands face increasing threats of creditor action and insolvency. This has the potential to impede the key aim of Government's \$137 million 2-phase Economic Response Plan, which is to provide economic stimulus and help businesses weather the economic impacts of the pandemic.

As a result, the Government is providing **critical lifeline support** for the private sector in the form of a series of temporary **business trading protection & debt hibernation measures**.

**COMPANY DIRECTOR PROTECTION** - Retroactively from 1 March 2020 through to 28 February 2021, this measure provides directors of companies in financial distress with assurance that if they act responsibly and continue trading in good faith, they will not be found to be in breach of their duties, as outlined in section 88 and 89 of the Companies Act 2017. The protection period can be extended by the Minister of Finance for an additional year, up to 28 February 2022.

**BUSINESS DEBT HIBERNATION** - Under this measure, eligible businesses that file the required notice will benefit from a 3-month 'initial' protection from creditor action in relation to existing debt. A 'subsequent' 6-month protection period is conditional on reaching a binding agreement with the business's creditors.

**VOIDABLE TRANSACTIONS PROTECTION** - This measure temporarily disapplies section 279 (insolvent transaction voidable) and section 282 (voidable security) of the Companies Act 2017, to protect persons dealing with com-

panies from having transactions unwound under voidable transaction provisions.

## ENSURING BUSINESS CONTINUITY

These measures are designed to assist businesses that were profitable and viable prior to the COVID-19 crisis, allowing them to continue trading in the current business environment, thereby preserving their economic value and saving jobs.



More information is available in the **Business Trading Protection & Debt Hibernation** fact sheet on the MFEM website at [www.mfem.gov.ck/bbi](http://www.mfem.gov.ck/bbi)

*The Fact Sheet and this article provide general information on the measures, and neither publication constitutes legal advice.*

