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COVID-19: Business debt hibernation

Business debt hibernation helps companies and other entities affected by COVID-19 manage their existing debts until they can start trading normally again. For example, businesses may agree with creditors to delay repaying some of their debt.

On this page you can:

- learn about the initiative
- access templates to help with your creditor proposal
- read 'case study' examples
- understand key legal requirements so you don't get it wrong.

After 31 October 2021, businesses can no longer apply to enter into business debt hibernation

Those that are already in business debt hibernation may continue with the process. Businesses have one month after entering into business debt hibernation to set up the arrangement. If creditors agree, they get a further six months of protection.

What is business debt hibernation

Business debt hibernation is a government initiative created in response to COVID-19. It helps companies, trusts, and other business entities affected by COVID-19 to manage their debts.

Unfortunately, sole traders aren't eligible for business debt hibernation. If you are a sole trader and seeking government support, read more on financial support for business.

[Financial support for businesses \(/covid-19/financial-support-for-businesses/\)](/covid-19/financial-support-for-businesses/)

If business debt hibernation is right for your business, this is how it helps you manage your debts.

- You set up an arrangement for your existing debts, eg paying your creditors only a percentage of what you owe them on time and delaying the rest.
- You get up to a month of protection while you set up the arrangement, meaning most creditors can't enforce their debts, eg applying for your business to be liquidated.
- If your creditors agree, you get a further six months of protection.

You still need to pay off your debts in full. Business debt hibernation helps you manage your debts while you are protected but they don't go away altogether. And it's only for debts you already have. Any new debts will have the terms and conditions your creditors set. Some debts aren't covered by business debt hibernation, eg employee wages and debts to secured creditors with a general security agreement.

Business debt hibernation reduces the burden of existing debts, so you can stay solvent and start trading normally again. For example, you might take a couple of months to get back up to speed, and then pay back the remaining debt over the following quarter. It's a new option to consider alongside borrowing money, or processes like creditor compromises or voluntary administration.

You can organise business debt hibernation yourself, or get help from a lawyer or accountant. If you do it yourself, you'll need to be aware of several legal requirements. For example, you'll need to complete several formal declarations and statements. You'll also need to organise a proposal and agree it with your creditors.

If businesses that owe you money may be considering business debt hibernation, read the Business debt hibernation and creditors page.

[Business debt hibernation and creditors \(/covid-19/business-debt-hibernation-and-creditors/\)](/covid-19/business-debt-hibernation-and-creditors/)

Business debt hibernation forms

Use a Creditor Decision Notice to tell the Companies Office whether or not your creditors approved the arrangement you proposed.

[Creditor Decision Notice – approved \[PDF 147KB\]\(external link\)](https://www.companiesoffice.govt.nz/assets/covid-19-bdh/bdh-notices/creditor-decision-notice-approved.pdf)
(<https://www.companiesoffice.govt.nz/assets/covid-19-bdh/bdh-notices/creditor-decision-notice-approved.pdf>) — Companies Office

[Creditor Decision Notice – not approved \[PDF 142KB\]\(external link\)](https://www.companiesoffice.govt.nz/assets/covid-19-bdh/bdh-notices/creditor-decision-notice-not-approved.pdf)
(<https://www.companiesoffice.govt.nz/assets/covid-19-bdh/bdh-notices/creditor-decision-notice-not-approved.pdf>) — Companies Office

Use a Cancellation Notice to tell the Companies Office that you want to come out of business debt hibernation early.

[Cancellation Notice \[PDF 117KB\]\(external link\)](https://www.companiesoffice.govt.nz/assets/covid-19-bdh/bdh-notices/bdh-cancellation-notice.pdf) (<https://www.companiesoffice.govt.nz/assets/covid-19-bdh/bdh-notices/bdh-cancellation-notice.pdf>) — Companies Office

Use a Notice under clause 70 to tell the Companies Office that your business debt hibernation has ended early because the business has entered a creditor compromise, voluntary administration, receivership or liquidation.

[Notice under clause 70 \[PDF 122KB\]\(external link\)](https://www.companiesoffice.govt.nz/assets/covid-19-bdh/bdh-notices/bdh-end-notice.pdf) (<https://www.companiesoffice.govt.nz/assets/covid-19-bdh/bdh-notices/bdh-end-notice.pdf>) — Companies Office

Consider other options

You'll need to understand what your cash flow looks like for the next few months. Forecasting your cash flow helps you understand your business health. You might discover you can squeeze by if you put some spending on hold, or boost your revenue with a new idea.

If you don't already have a forecast, try the Cash flow forecaster tool.

[Cash flow forecaster\(external link\)](https://www.tools.business.govt.nz/cashflow-forecaster/) (<https://www.tools.business.govt.nz/cashflow-forecaster/>)

Perhaps a loan will help. The Small business cash flow loan scheme provides government loans for small businesses, including sole traders and self-employed, to support their immediate cash flow needs. Applications are open until 31 December 2023 through Inland Revenue. Find out if you're eligible and how to apply on the COVID-19: Financial support for businesses page.

[COVID-19: Financial support for businesses \(/covid-19/financial-support-for-businesses/\)](/covid-19/financial-support-for-businesses/)

Steps to follow if you've already started the business debt hibernation process

Decide whether to organise things yourself, or get help from a lawyer or accountant. It's a great idea to get professional help if you can.

A professional who's familiar with the processes involved can take you through all the following steps and help you get things right. That gives you the best chance of success, and reduces your chances of getting into trouble because of an error. Deciding about getting help first means you can get support straight away and avoid any false starts or wasted effort.

Check those involved in your business are prepared to enter business debt hibernation. If you have more than one director (or equivalent), you need to prove at least 80% are in favour.

Plan ahead for the rest of the process. Think about what arrangement you want to propose and gather the information you'll need.

Make a proposal to creditors

You need a plan to get back to business as usual and repay your debts in full. Without a plan, your creditors are unlikely to believe you will recover. For example, you could propose all creditors get half of what you owe them on time, and you pay the rest back at the end of the protection period or another date.

The proposal needs to make financial sense to everyone involved. It should be just enough to make the difference between returning to normal trading and having to take steps like voluntary administration or even closing down the business.

The proposal should be a better deal for your creditors than the alternative of trying to get their money back if the business fails. And you need to prove all this, eg with cash flow forecasts and other evidence to make your proposal compelling.

Send the proposal to all your creditors, along with other legally required info. Set up a vote, and give your creditors at least five working days to respond. More than half your creditors, by size of debt and by number, must vote in favour. This is fewer than some alternatives, eg creditor compromises need 75% support among creditors.

[How do you organise a creditor proposal?\(external link\) \(https://www.companiesoffice.govt.nz/covid-19/business-debt-hibernation/#organise-creditor-proposal\)](https://www.companiesoffice.govt.nz/covid-19/business-debt-hibernation/#organise-creditor-proposal) — Companies Office

[NZTE Guidance: Solvency and COVID-19 \[PDF 417KB\]\(external link\) \(https://assets.ctfassets.net/puga2cn07wue/664pyq9DNLNAKgZwcgqpgl/46673e0507a9c0dc292214e707c2eee6/Covid-19_Solvency_Guidance.pdf\)](https://assets.ctfassets.net/puga2cn07wue/664pyq9DNLNAKgZwcgqpgl/46673e0507a9c0dc292214e707c2eee6/Covid-19_Solvency_Guidance.pdf) — New Zealand Trade and Enterprise

[Creditor Proposal Pro-Forma \[DOC, 98 KB\] \(/assets/Uploads/Documents/business-debt-hibernation-creditor-proposal-pro-forma.doc\)](/assets/Uploads/Documents/business-debt-hibernation-creditor-proposal-pro-forma.doc)

[Letter to Creditors Template \[DOCX, 20 KB\] \(/assets/Uploads/Documents/business-debt-hibernation-letter-to-creditors.docx\)](/assets/Uploads/Documents/business-debt-hibernation-letter-to-creditors.docx)

Send your Creditor Decision Notice

When you have the results of the vote, complete a Creditor Decision Notice using the form on this page. Send it to the Companies Office. You need to send your Creditor Decision Notice before your initial month of protection ends.

If your creditors approve the proposal, sending the Creditor Decision Notice gives you six months of protection from the date the board records the decision.

Pay back your debts as agreed

If your creditors approved your proposal, pay your debts as you have arranged. The business debt hibernation scheme applies to all your creditors, not only the ones who agreed. Keep an eye on your progress to make sure you're able to pay back your remaining debts as agreed.

If your creditors didn't approve your proposal, you need to take other steps to pay them back. This may include voluntary administration to restructure your business. Or closing your business down and selling off assets (liquidation) to pay creditors part of what you owe them.

End business debt hibernation

Business debt hibernation ends automatically at the end of the protection period. You don't need to send any notices at the end of the six months of protection.

You can end business debt hibernation early if you choose to. For example, you may pay back all the protected debts and want to clear the status from your company information. Or you may decide you need to close down the business, and want to remove the protection first. To end business debt hibernation early, send a Cancellation Notice to the Companies Office and a copy of the notice to all creditors.

Business debt hibernation also ends automatically if the business enters a creditor compromise, voluntary administration, receivership or liquidation. If this happens, send a Notice under clause 70 to the Companies Office.

[How do you end business debt hibernation early?\(external link\) \(https://www.companiesoffice.govt.nz/covid-19/business-debt-hibernation/#end-bdh-early\)](https://www.companiesoffice.govt.nz/covid-19/business-debt-hibernation/#end-bdh-early) — Companies Office

Understand your legal obligations. Get help from a professional if you can.

You need to meet legal obligations throughout the process, eg when notifying creditors that you are seeking business debt hibernation, when sending a proposal to creditors, and when holding a vote and completing the Creditor Decision Notice. Getting help from your lawyer or accountant is a good way to ensure you meet your obligations and don't become liable as a result of any errors in your process.

Case studies

Here are a few case studies to see how business debt hibernation could be considered for different business situations.

Case study

Joe manages to avoid closing up shop

Joe's the director of a small business printing custom signs for shops. He's looking forward to lots of new jobs as his clients reorganise their shopfronts. But he lost all his work during the lockdown and his outstanding debts to materials suppliers are due before enough income from his new jobs will reach his bank account.

Joe talks things through with his accountant, who explains business debt hibernation might help him get through his cash flow crunch. It's a much more appealing idea than selling off his equipment to cover his debts, which would mean he'd miss out on the new jobs he's looking forward to.

Joe's accountant can handle it all for him because he's already set up to manage his official company information. He talks Joe through the process, showing Joe some scenarios for shifting some of his debt repayment a few months later. One scenario looks promising. It involves paying half of each debt on time, and half at the end of the protection period.

The accountant files the paperwork and notifies the creditors for him. Joe's nervous when he talks to some of his creditors to explain the proposal in person. But they can see the plan is sensible, the business is viable, and it's their best chance to avoid losing any money. This is particularly important for some of the smaller creditors, who are in a tight spot themselves. The vote goes well. Joe's accountant gets all the paperwork finished off well before the deadline.

The next few months are busy. Joe pays half of each bill as it becomes due. He also takes care to pay any new bills on time in full, because they are not covered by business debt hibernation. At the end of the protection period, Joe has managed to catch up and pay back all his existing debts. He breathes a sigh of relief when it's all over.

Case study

Ana keeps the trust on track

Ana is a trustee for a community trust that organises local events. The trust needs help to cover some outstanding costs until they can restart their popular events. Ana and the other trustees decide to manage the process themselves, with Ana taking the lead.

Ana follows the instructions but finds a few things take much more time than she expected. For example, it turns out that a previous trustee who moved overseas still has the authority to manage their information at the Companies Office. After a few international phone calls and a bit of a wait, she gets them to transfer the authority to her.

Ana organises the proposal and voting herself. It takes some effort, although the templates she uses help. She hurries to get everything sorted before the month ends.

In the end Ana gets the proposal approved. Her creditors were very understanding and are pleased they won't lose any money. The arrangement goes well and the trust is able to pay back everything it owes.

[Confirming your authority\(external link\) \(https://www.nzbn.govt.nz/manage-your-nzbn/confirming-your-authority/\)](https://www.nzbn.govt.nz/manage-your-nzbn/confirming-your-authority/) — New Zealand Business

[More detail about organising your creditor proposal \(/covid-19/business-debt-hibernation/downloadpdf#make-a-proposal-to-creditors\)](/covid-19/business-debt-hibernation/downloadpdf#make-a-proposal-to-creditors)

Case study

David takes care to meet all the requirements

David is on the board of a manufacturing company with about 100 employees. Getting their cash flow back to normal will take a while, particularly as they have suppliers overseas and export most of what they make.

David and his fellow board members are well aware of their duties as directors. For example, they must not create a substantial risk of serious loss to creditors, and they must act in good faith, always doing what they think is best for the company.

The company's international business means there's plenty to think about when considering business debt

hibernation. So they put together a team of two board members, the company's external accountant, and a lawyer that specialises in this topic.

The team confirms business debt hibernation is a good option and puts together detailed information to support a creditor proposal. They collect detailed current financial information, and forecast a set of scenarios so creditors can compare the outcomes:

- without any action to manage debts
- with the creditor proposal they have decided on
- with other arrangements they considered and rejected.

The team also talks to some of the company's key creditors, to get a feeling for what they would be looking for in a proposal.

The scenarios show the team has taken care to find the best course of action. At a special meeting, the board agree to seek business debt hibernation and send the proposal the team has prepared. The team stays in place to manage the rest of the process, making sure all the paperwork is meticulous and meets all the legal requirements.

All the team's groundwork pays off. All except one of their creditors agree to the creditor proposal, so the company is able to go ahead with six months of business debt hibernation. The board carefully monitors progress during that period, so they can continue to reassure creditors that they are on track for a full recovery.

[What it means to be a good director \(/business-performance/governance/being-a-good-director/\)](/business-performance/governance/being-a-good-director/)

Case study

Ari needs a different scheme

Sole trader Ari hears about business debt hibernation from a friend with another small business. He thinks it sounds like just what he needs. He has some outstanding bills from buying new equipment for his arborist business, and tricky cash flow from his interrupted work which is only now starting to pick up again.

Ari reads up about business debt hibernation in between jobs, and is disappointed to find that as a sole trader he's not eligible. He can see how the financial paperwork could be tricky though. He sees some other options suggested, and learns about the Small business cash flow loan scheme. That sounds like it could help him cover his payments until business is back to normal. He finds out more about it and gets himself set up with a small loan.

[Financial support for business\(external link\) \(https://www.tools.business.govt.nz/funding-explorer/\)](https://www.tools.business.govt.nz/funding-explorer/)

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