



## COVID-19 NewsBrief – 3 April 2020

As we reach the end of the second week of most of us working from home, we thought it appropriate to review the week's events and how they may affect you and your business.

As events and assistance packages continue to evolve we will be posting more comprehensive items of news on our website [www.ecoviskga.co.nz](http://www.ecoviskga.co.nz) under the heading of COVID-19 at the top of the homepage.

Here is the week that was, in summary.

### **Wage Subsidy Scheme**

Last Friday the scheme was amended at 3 pm and any business applying for the subsidy after that time would be subject to the revised rules. We sent out some information in that regard on Monday. The highlights of the scheme are:

- There are eligibility criteria and a declaration needs to be made [find out more here](#)
- The \$150,000 cap has been removed to assist larger employers
- Normal employment law applies – any changes to terms of employment must be done in consultation with staff [find out more here](#). There must also be a discussion with staff around requirements to use their leave entitlements
- Businesses must undertake to keep people employed for the period of the subsidy
- Employers must make best endeavours to pay employees named in the application at least 80% of their usual wages. If that isn't possible, and the employee's usual wages are above the subsidy rate, the employer needs to pay at least the subsidy rate (i.e. full-time or part-time)
- Payments to staff of their subsidised wages are subject to PAYE, student loan, KiwiSaver and all other usual deductions
- If any losses are recovered by a business under their business continuity insurance policy, then subsidies must be repaid. In our experience most business continuity policies exclude pandemics, but it is worth checking yours to see if you are covered

### **Business Finance Guarantee Scheme**

This scheme applies to small and medium-sized businesses, to protect jobs and support the economy. The Crown in partnership with participating approved banks will support targeted new loans (including increases to existing limits) to eligible businesses.

Under the scheme, businesses with annual revenue between \$250,000 and \$80 million can apply to their banks for loans up to \$500,000, for up to 3 years.

The Government is guaranteeing 80% of the risk, while the banks are covering the remaining 20%. A normal lending process will be followed by the banks, which will make the lending decisions. Contact your own bank for their criteria but you can [find out more here](#).

## Commercial Rents

Most businesses have had to shut their doors and of necessity cannot use their offices or factories. Those whose lease is a standard Auckland District Law Society lease may have some relief available. Other leases may contain similar provisions.

Tenants may be able to withhold a fair proportion of the rent and outgoings where they have been denied access to their premises as a result of the COVID-19 lockdown measures. What constitutes a "fair proportion" is the big issue.

We have seen some instances where tenants have been given 100% abatements by their landlords and in others a lot less has been allowed.

Our recommendation is that you check your lease for such provisions and then enter into a discussion with your landlord. In fact, even if you are not able to rely in such a clause providing relief it is worth having a discussion with your landlord to see if a rental and outgoings abatement is possible.

For landlords, we expect that you will have had such requests from tenants and we have tried to obtain legal clarification around the definition of "fair proportion". Suffice to say that there is no unified view coming from the legal profession at this time.

The Minister of Finance has indicated that the government will be addressing this matter and we expect that some form of relief for owners of commercial properties will be forthcoming, with the obvious expectation that any such relief will be passed on to tenants. We will keep you appraised of any developments as they unfold.

Until then, the best advice is for both landlords and their tenants to hold sensible discussions, in good faith, in the hope they can reach some common ground. While landlords have certain rights under the Property Law Act when a tenant fails to pay their rent, they would be well advised to consider extreme care when exercising those rights in this very uncertain environment.

## Tax Measures

No new tax measures were introduced this week and the obligation to make tax payments on their due dates remains afoot. That notwithstanding the IRD has advised taxpayers who are unable to make their tax payments due to the COVID-19 hardships to make contact them with a view to forgiveness of interest and penalties.

We recommend that you get in touch with your Ecovis KGA adviser to discuss any tax deferral options such as tax pooling.

The IRD has a dedicated web page for COVID-19 matters [find out more here](#).

**At Ecovis KGA we're privileged to have a team of experts with in-depth knowledge to assist with many of the challenges which businesses are facing right now. Please remember the firm is fully operational and we are here to help in any way we can - we are just a phone call or email away.**

*This publication is not designed to provide legal or other advice and you should not take, or refrain from taking, action based solely on its content without first discussing matters with us.*