

The effect of COVID-19 on your business

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With a recession now inevitable, many New Zealand businesses will want to know what they should do to protect their interests in a distressed business environment.

In this article we explore 10 things that your business should be thinking about as COVID-19 affects the economy.

1. Look after your staff. They will be anxious about their health and job prospects, so an active communication plan is essential. Be prepared for staff to work from home or allow flexible work hours so that staff can avoid busy public transport and take care of dependents. [Click here](#) for more information on what employers should bear in mind when navigating COVID-19.
2. Reach out to your customers. How are they affected by the pandemic? What new protocols do they have in place for doing business? How can your enterprise continue to supply goods and services to customers when social distancing is becoming the new norm? Many customers will be seeking comfort about the integrity of their supply chain, so be clear about what your business can offer at this time – and what your payment terms will be.
3. Make sure your paperwork with your customers is up-to-date. Now is the time to make sure you have “doted the i’s and crossed the t’s”. Do you have signed contracts? Did you receive the guarantees you were promised? If you are supplying goods on credit, do you have an enforceable security agreement for those goods and have you registered a financing statement on the PPSR?
4. Maintain good relationships with your key creditors. No one likes unpleasant surprises, particularly lenders, and full and frank discussions as early as possible will leave more options on the table. In our experience, most creditors want to work with their debtors to find an outcome that both parties can live with.
5. Seek trusted professional advice early to identify the best options for your business. Make the most of the insights on offer from your lawyers and accountants. Stay in touch with relevant industry groups.
6. Reduce costs where possible - many businesses will be saving on travel and events at present. Maintain an accurate financial position for your business, monitor cash flow forecasts carefully and check underlying assumptions to ensure that they are realistic. Keep apprised of support that may become available from the Government. The IRD has already indicated that relief and assistance, such as instalment arrangements, may be available to those affected by COVID-19.
7. If business debt is getting out of control, take prompt action and talk to your advisors about whether a standstill arrangement, creditors’ compromise or a voluntary administration is the right step for your business to preserve value.

8. If your business is struggling to perform its obligations, take advice about whether COVID-19 will trigger any *force majeure* clauses in contracts with customers or suppliers. A *force majeure* clause excuses non-performance where circumstances make performance impossible. If there is no such clause or it is not triggered, it is still possible that a contract may have become frustrated at law and no longer capable of performance.
9. Check your insurance policies to see whether your business has business interruption insurance. Such a policy may cover some losses arising from a communicable disease such as COVID-19.
10. Directors should be particularly conscious of the duties that they owe to their companies. Directors must act in good faith and in the best interests of the company. A director should not commit a company to new obligations unless she believes, on reasonable grounds, that the company will be able to perform those obligations when it is required to do so. Further, the law penalises directors who engage in reckless trading by taking illegitimate business risks.

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