

LITIGATION, DISPUTE RESOLUTION AND INVESTIGATIONS  
INSURANCE AND REINSURANCE

# COVID-19: Practical Considerations: Insurance Coverage

25 March 2020

Insurers and brokers are already receiving a significant number of queries and starting to see a rise in the number of claim notifications as a result of the COVID-19 pandemic.



Whether you are an insured business or an insurer, you should examine the precise wording of all insurance policies at this time to determine the level of cover (if any) they provide during this pandemic.

Here are some issues to consider as a starting point:

## BUSINESS INTERRUPTION

Where a business has closed to avoid putting its staff and customers at risk, or has effectively been shut down at the request of the Government or public health authorities, it should carefully review its insurance policy to see whether it has “business interruption” insurance and whether the wording of the policy covers the current situation. Even if business interruption is covered under its policy, there may be conditions attaching to its application, limits on the amount of cover or a prescribed mechanism by which losses are calculated. The specific wording of the policy needs to be very carefully reviewed:

- **Business interruption – physical damage to property:** Sometimes business interruption policies are designed to provide coverage only where a building has been physically damaged (for example, due to a fire, flooding or rodent-infestation), and the premises has to be shut while the damage to the property is being repaired. If the insurance policy requires physical damage to take place

before the insurance is triggered, there may be no cover for losses resulting from COVID-19.

- **Business interruption – notifiable disease/infectious disease:** Some insurance policies provide cover for business interruption losses caused by a “notifiable disease” or “infectious disease”. This cover is not usually contained within the scope of the standard policy terms themselves but is usually sold as an optional add-on, taken up by certain businesses. COVID-19 was declared a notifiable disease by law in Ireland on 20 February 2020; this can be a key requirement to claim under policies which use this wording. Even then, whether cover will be available for COVID-19 will depend on various factors and in particular, how these phrases are defined in the policy.
- **Business interruption – access restricted at direction of government:** Some business interruption policies also provide cover for losses resulting from closure when access to a business has been restricted as a result of a direction by a government or state body. The precise wording of these policies will need to be carefully reviewed. There may be disputes between insurers and policyholders regarding coverage for businesses that have closed voluntarily or in response to a government request, rather than being mandated by law to do so. The Minister for Finance, Paschal Donohoe,

has said that where a policy provides cover for closure as a result of a direction of the Government, insurers should treat the Government's advice to close a business as amounting to a Government direction and should not try to distinguish between the two.

- **Business interruption – contingent:** “Contingent” business interruption insurance can provide cover for disruption to a business caused by damage to, or loss of, property of suppliers, business partners or customers. Again, such policies may provide coverage to an insured where a supplier's business has been interrupted or closed due to the public health issues which have arisen.

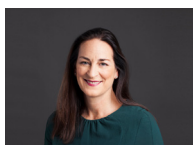
**ALL RISKS**

Some businesses may have umbrella clauses or “all risks” clauses to cover perils that are not otherwise listed in the policy. These, like any other insurance clause, will be subject to limitations and exceptions which should be reviewed carefully.

**EVENT CANCELLATION**

Policyholders with insurance for event cancellation or abandonment should assess whether they are covered in the case of a pandemic. Some event cancellation insurance may contain exclusions relating to restrictions of movement imposed by state authorities.

**KEY CONTACTS**



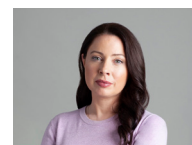
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**CREDIT INSURANCE**

It is important to consider any credit insurance in place if there is a risk of non-payment of a debt due to the disruption of a supply chain or the closure of a business premises.

**LIMITATIONS AND EXCLUSIONS**

The exclusions section of all insurance policies should be reviewed carefully. Some policies may exclude pandemics, infectious diseases or contaminants, and loss caused by the actions of state authorities may also be excluded.

The total amount recoverable may be subject to limitations. In addition, there may be waiting periods before coverage is triggered or the indemnity periods may be limited.

**NOTIFYING THE INSURER OF CHANGES TO BUSINESS**

If employees are being asked to work from home or the nature or scale of their work is changing, employers should check the extent to which the business' insurance will cover the changed work environment. For example, some policies require policyholders to notify insurers if an insured building will be unoccupied for a certain period (often 30 consecutive days) and policyholders may face coverage issues if they fail to do so. Where a building is unoccupied, the policy

may also provide for an increase in the premium payable.

**CENTRAL BANK EXPECTATIONS**

In response to the COVID-19 crisis, the Central Bank has emphasised the provisions of the existing consumer protection framework, which is designed to ensure that consumers' best interests are protected, particularly in times of financial difficulties. In line with the consumer protection framework, the Central Bank has stated that it expects regulated firms to protect consumers from risks that may emerge from COVID-19. The Central Bank has also indicated that reasonable arrangements and/or assistance should be provided to those who may be experiencing particular vulnerabilities as a result of the impact of COVID-19, for example due to illness or loss of income.

Insurance Ireland, the representative body for the Irish Insurance industry, has said this week that insurers are aware that we are in uncertain times and that accommodations will be made e.g. where there is a temporary change of use (as people are using their homes as offices), insurers are willing to waive conditions in home insurance policies regarding the use of the premises if a claim were to arise in the relevant time period.

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