

Article Information

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Business Interruption Insurance - will it apply in the COVID-19 pandemic?

The COVID-19 pandemic has caused extraordinary disruption to business across many industries ranging from decreased sales to complete shut down.

Many business insurance policies include cover for business interruption.

Insurance policies differ in their terms and conditions. Whether a policy responds will depend on the wording of the specific business insurance policy and your circumstances.

This article considers typical business interruption cover clauses in an effort to provide some guidance to clients.

Cover for Damage to Property

Most business interruption policies will cover the insured against loss resulting from interruption to or interference with the Business due to **Damage** at the business premises occurring during the period of insurance.

Damage is defined as loss, destruction or damage to the property of the insured caused by a **Defined Event** insured under the policy and for which the insurer has admitted liability.

A **Defined Event** will include events such as fire, lightening, thunderbolt, earthquake, volcanic eruption, riots, strikes and civil commotion, escape of liquids, impact of animals or vehicles, impact by trees, aircraft or watercraft, vandalism, malicious damage, storm or rainwater.

The business interruption in these policies must result from physical damage to property.

Accordingly, loss of income as a result of a health pandemic will not be covered under these types of clauses.

Extensions to cover Infectious Diseases

Some policies provide specific extensions to business interruption cover in this form:

Infectious disease

We will pay for loss of income that results from an interruption of your business that is caused by:

(a) any legal authority closing or evacuating all or part of the premises as a result of:

- the outbreak of an infectious or contagious human disease occurring within a 20-kilometre radius of your premises, however there is no cover for highly pathogenic Avian Influenza or any disease declared to be a quarantinable disease under the Quarantine Act 1908 (as amended) irrespective of whether discovered at the location of your premises, or out-breaking elsewhere."*

The Quarantine Act 1908 has been replaced by the Biosecurity Act 2015. Human coronavirus with pandemic potential is a listed human disease declared under the Biosecurity Act.[\[1\]](#)

As the Biosecurity Act replaces the Quarantine Act, an argument that an exclusion referring to the Quarantine Act does not

apply is not likely to succeed.

Accordingly, an Infectious disease extension on the above terms does not respond to loss of income resulting from Covid 19.

Extension Insurance cover for specific circumstances

There are some business interruption policies which have extension cover specifically written for the business.

An example might be interruption to a supply line or the closure of a border. These policy extensions are specific and the express terms of the policy may respond to the circumstances.

It is worth reviewing the policy as soon as possible as there may be time limits on notification of potential damage.

Conclusion

This research supports the conclusions which appear on the current catastrophes webpage of the Insurance Council of Australia^[2] as follows:

1. Most business interruption policies typically cover disruption to a business as a result of physical damage to assets that the business relies upon.
2. Some business interruption policies will cover a closure of business by an authority due to a number of reasons including infectious disease.
3. However the *majority* of these policies are likely to contain exclusions relating to losses caused by a disease notifiable under the Quarantine Act 1908 or its successor, the Biosecurity Act 2015.
4. This will need to be checked on a case by case basis.
5. A small number of businesses may have specialist cover, specifically written for them. Cover may be provided for disruptions to critical supplies from overseas, or a sudden drop off in trade due to specific border closures.

Key takeaway

The business insurance policy purchased by your business will need to be reviewed to determine whether cover is available.

This review should be carried out as soon as possible to ensure any notification period for a claim is met.

Important Note

Due to variations in policies and circumstances, this article is not intended to be and cannot be relied upon as specific legal advice.

[1] www1.health.gov.au/internet/main/publishing.nsf/Content/ohp-biosec-list-diseases.htm

[2] <https://disasters.org.au/current-catastrophes/2020/3/11/cat203-covid-19-virus>