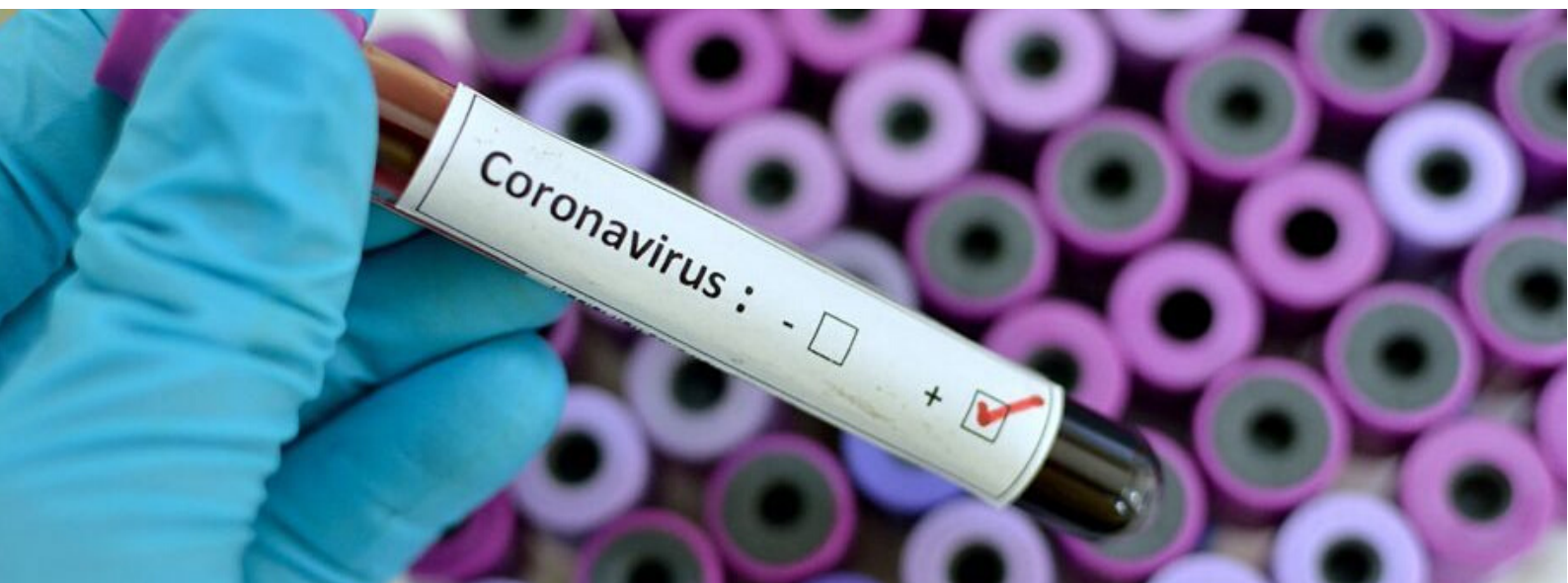


23 MARCH 2020

LOGICAL IN LOGISTICS NEWS



CORONAVIRUS (COVID-19) & BUSINESS INTERRUPTION INSURANCE

As we all have seen in recent media reports, the spread of COVID-19 continues globally and within Australia. At the time of writing, the number of cases in Australia has shot past 1,100, with the number of further cases set to spike over the coming days & weeks as testing continues. The situation remains extremely fluid, with the Federal & various State/Territory governments releasing information & tightening restrictions almost hourly in attempts to slow the spread.

Against this backdrop, it is obvious that many businesses within the logistics industry have been disrupted due to travel, import and export restrictions.

Participants within the logistics industry may hold Business Interruption (BI) cover as part of their overall insurance program. BI cover (if selected) is usually included within standard Business Insurance & Industrial Special Risks (ISR) policies.

Many BI policies will typically include clauses relating to cover provided for "Human Infectious or Contagious Diseases", with certain sub-limits applying. Although the actual wording of these clauses will differ from insurer to insurer, many will be similar to:

"Loss as insured by this Policy resulting from interruption of or interference with the Business directly or indirectly arising from closure or evacuation of the whole or part of the Premises by order of a competent public authority consequent upon:



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Principal at Logical Insurance Brokers

*(a) human infectious or contagious disease manifested by any person whilst at the Premises;
(b) the outbreak of a notifiable human infectious or contagious disease in humans occurring within the immediate vicinity of the Premises;...*

...However, clauses (a) and (b) will not indemnify loss resulting from interruption of or interference with the Business directly or indirectly arising from or in connection with highly Pathogenic Avian Influenza in Humans or any other diseases declared to be a quarantinable disease under the Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015 (Cth) and subsequent amendments.”

The purpose of this update is to explain and warn that these clauses are unlikely to provide protection in the event of COVID-19.*

As you can see, the wording requires firstly that *“closure or evacuation of the whole or part of the Premises by order of a competent public authority consequent upon...”*. At the time of writing, we not aware of any evidence of public authorities ordering the closure of buildings. As we understand it, these orders would probably come from local &/or State/Territory governments. We do not believe this is a Federal matter. Therefore, if there is no order by a competent public authority, the clause cannot be activated.

Even if there is a closure order, you will note that there is no cover for diseases declared to be “quarantinable diseases” under the Biosecurity Act. COVID-19 is a “Listed Human Disease” under the Act, and therefore no cover would apply.

We thought it would be helpful to provide some commentary as to how insurers have arrived at the position not to provide cover for epidemics/pandemics.

Traditionally, BI policies only covered disruptions to a business as a result of damage to “insured property”. However, over time, insurers widened the protection to provide coverage as a result of closure by a public authority for several risks, including infectious disease. This was designed to cover things such as an outbreak of Legionnaires disease or measles, which can close down one or two buildings disrupting a small number of businesses. The idea & design was to provide cover at or near the insured premises.

It was not intended to cover disruption caused by an outbreak in a different state, let alone a different country.

With the outbreak of the Severe Acute Respiratory Syndrome (SARS) in 2003, insurers (& reinsurers) were prompted to undertake modelling as to how large claims would total in dollar terms resulting from a major pandemic such as the Spanish Flu, which lasted from January 1918 – December 1920, and resulted in the death of anywhere between 40 and 100 million people. The reality was that the global funds held by insurers could not meet business interruption claims arising from such a large-scale pandemic...there would be no insurance industry left following an event like that to protect against the traditional insured perils such as fire, burglary, liability etc.

Insurers were not keen to strip away the coverage that was being offered for localised infectious disease outbreaks, so they added an exclusion to their policies, stating that disruption from a number of highly communicable & potentially global diseases were not covered. These diseases can arise at any time and originate from new sources, so the insurance industry introduced a clause which excludes any disease that is notifiable under the Quarantine Act 1908 (Cth), which has been updated by many insurers in line with changes in legislation to the Biosecurity Act 2015 (Cth).

As at the end of January 2020, COVID-19 became a listed disease and therefore the policy exclusions noted above will take effect. Therefore, this means there is no insurance protection for disruptions to business arising from COVID-19*.

**There are circumstances where certain global businesses may have secured cover for pandemics via highly specialised global insurance programs.*

Who we are:

James and the team at Logical Insurance Brokers provide specialist risk management and insurance solutions to the logistics industry. Logical is delighted to be associated with the Freight and Trade Alliance (FTA) and is proud to be their appointed insurance adviser since its inception in 2012. James is also a regular presenter at FTA professional development events.

If you would like more information about how a carefully constructed insurance program and business continuity plans can help protect your business, please feel free to contact James on 02 9328-3322, email jamesc@FTAlliance.com.au or visit the Logical Insurance Brokers website at www.logicalinsurance.com.au/logistics.

Disclaimer: This article is general in nature and is designed to provide helpful general guidance on some key issues relevant to this topic. It should not be relied on as legal advice. It does not cover everything that may be relevant to you and does not take into account your particular circumstances and you use it at your own risk. Logical Insurance Brokers specifically disclaims any liability, whether based in contract, tort, negligence or otherwise, for any direct, indirect, incidental, punitive, consequential or other damage arising out of or in any way connected with the use of or reliance on the content of this article. It is only current as at the date of release. You must ensure that you seek appropriate professional advice in relation to this topic as well as to the currency, accuracy and relevance of this material for you.

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