



# COVID 19 Risk Assistance Paper March 2020

PREPARED BY INTERCHARGE &  
SOURCE LEGAL & PREMIUM STRATEGIES

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# Contents

<b>Introduction</b>	<b>3</b>
Overview – COVID 19	3
Where can I get information from?	3
What is the Government doing?	3
<b>Insurance Risks</b>	<b>4</b>
Travel Insurance	4
Smart Traveller	5
Business Interruption	6
Cancellation & Abandonment Insurance	6
Employee Work Health & Safety	7
Workers Compensation	8
Medical Industry	10
<b>Operational &amp; HR Risks</b>	<b>11</b>
How does COVID 19 affect business contracts	11
HR Risk and Responsibilities	12
Staff Travel Template – Steadfast Version	13
Risk Management Consideration	13
<b>Contributor Credentials</b>	<b>14</b>

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# Introduction

This document is designed to provide some assistance and support for organisations during the COVID 19 Pandemic. The information within this document is general in nature and subject to change as the issues surrounding the virus continue to develop.

Information within this report has been obtained via publicly available information, Government and global agencies, insurers and specialist organisations.

## Overview – COVID 19

Coronaviruses are a large family of viruses which may cause illness in animals or humans. In humans, several coronaviruses are known to cause respiratory infections ranging from the common cold to more severe diseases such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS). The most recently discovered coronavirus causes coronavirus disease COVID-19.

People can catch COVID-19 from others who have the virus. The disease can spread from person to person through small droplets from the nose or mouth which are spread when a person with COVID-19 coughs or exhales. These droplets land on objects and surfaces around the person. Other people then catch COVID-19 by touching these objects or surfaces, then touching their eyes, nose or mouth. People can also catch COVID-19 if they breathe in droplets from a person with COVID-19 who coughs out or exhales droplets. This is why it is important to stay more than 1 meter (3 feet) away from a person who is sick.

## Where can I get information from?

We would suggest reviewing daily WHO reports:

<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports/>

In addition the Australian Department of Health has more local information which can prove useful:

<https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert>

## What is the Government doing?

The Australian Government is releasing a \$2.4 billion package to protect all Australians, including vulnerable groups such as the elderly, those with chronic conditions and Indigenous communities, from the coronavirus (COVID-19).

The National Coordination Mechanism has been activated (Coordinate Commonwealth, State and Territories to ensure a consistent approach to services).

The Australian Health Sector Emergency Response Plan has been activated (Coordinates Border force, and directives from Ministers responsible to Health, Education, Home Affairs etc.).

# Insurance Risks

## Introduction

Like many firms Intercharge has been inundated with queries regarding insurance coverage and operational risks. The nature of this pandemic means all businesses and organisations will need to adapt as the situation develops. In order to proactively assist we have provided the following summaries relating to certain insurance related risks. We hope this will provide some help and guidance.

## Travel Insurance

Most general travel insurers are providing very little cover relating to COVID 19. But the Corporate versions remain mostly intact.

One of the popular Corporate Travel insurance providers is Accident & Health International (AHI). There are many others, but we believe the below statement from AHI will provide an accurate microcosm of the stance corporate travel insurers are making in relation to the virus.

### **AHI – advice effective 12/3/2020**

Following the Global Pandemic declaration made by the World Health Organisation, it is no longer unforeseeable that any travel arrangements will be disrupted, changed or cancelled, and this changes AHI's position.

On or after **4pm (AEDT) on 12<sup>th</sup> March 2020** AHI will no longer provide cover for losses or claims incurred as a direct or indirect result of the COVID-19 (Coronavirus). This applies to all new policies issued and all new travel booked.

### Medical Expenses –

AHI will provide cover for medical and additional expenses in association with the management and treatment of the Coronavirus provided the travel is undertaken in accordance with the Australian Governments Travel Advisory updates.

### “additional” and “forfeited” expenses –

AHI will provide coverage for the direct additional and forfeited expenses associated with the unforeseeable closures of previously open international borders and/or government-imposed quarantine. Only losses caused directly by unforeseeable cancellation of travel and/or accommodation by third parties which is outside of your control are covered. If other travel plans exist which remain unaffected there is no cover for the cancellation, curtailment or amendment of this portion of the trip.

### Loss of Deposits and Cancellation –

There is cover for any cancellation or amendment where:

- A DFAT ADVICE LEVEL 4 – DO NOT TRAVEL is in existence for that country or region, and
- the cancellation or amendment occurs within 28 days prior to the commencement of the journey.

There is cover for travel to any country/region:

- Where a DFAT ADVICE LEVEL of 1, 2 and 3 is in place at the time of booking ([www.smartraveller.gov.au](http://www.smartraveller.gov.au)).

There is NO cover for travel to any country/region:

- Where at the time of booking your travel arrangements there is a DFAT ADVICE LEVEL 4 – DO NOT TRAVEL for a country as a whole, or a LEVEL 4 for a region or province within a country to which you intend to travel.
- For amended/cancelled travel where the DFAT ADVICE LEVEL remains at 1, 2 or 3.

There is NO cover for:

- Wages or income replacement for any period where you are:
  - placed in quarantine
  - self-isolating.
- Any additional/forfeited expenses where you are:
  - self-isolating.
- Any expenses associated with an Insured's failure to conduct due diligence into any known "entry restrictions" or "quarantine restrictions" that were in place at the time of booking travel arrangements. This particularly applies to travel plans that involve travelling through or transitioning through multiple countries.

#### **Important Note:**

Corporate Travel insurance does not cover 'disinclination to travel', where a traveller has decided for personal reasons to cancel or change travel arrangements. In some cases, where a destination is not currently deemed to be high risk, cancellation or alteration of travel arrangements may be a change of mind and not covered.

#### **Smart Traveller**

We recommend employers and relevant staff check the Smartraveller site frequently.

<https://www.smartraveller.gov.au/>

#### **Should I take my planned trip?**

The Smartraveller website states:

Particularly if you're elderly or have an underlying health condition, you should carefully consider your travel plans and consult your doctor before travelling.

All travellers should consider what medical services or support you'd have available if you contracted COVID-19 overseas, or had to undergo a quarantine period in the country you're headed to. Be prepared for delays and disruption, including taking into account what this might mean for your health, and your family, work or study responsibilities. Every traveller is different, and will have different reasons for travelling, health conditions and risk appetite.

To inform your decision about whether to travel, and to be prepared if you do:

- [read](#) and [subscribe](#) to the travel advice for your destination, as well as any transit points;
- check in with your travel insurance provider to confirm what your insurance may cover if your travel is disrupted due to COVID-19;
- call your airline or travel agent to ask how COVID-19 may affect your bookings; and
- visit your doctor for advice if you are elderly, travelling with children or have underlying health issues.

## Business Interruption

Is your business covered?

Firstly, each insurance policy is different, so this is general advice, however most insurance policies are quite consistent with their application to infectious diseases.

So the short answer is No, loss of income/revenue due to this Pandemic is not recoverable from your Business Package or ISR policy.

The standard trigger for business interruption claims under a business insurance policy is “physical loss or damage caused by an insured peril”. So the Business Interruption section responds after a fire, storm or any other insured peril.

However most business policies have an “infectious disease endorsement/benefit” under the business interruption section which will read like this –

*We will also pay You for interruption to or interference with Your Business due to closure or evacuation of the whole or part of the Situation during the Period of Cover:*

*(a) by order of a Government Authority as a result of vermin or pests or defects in the drains or other sanitary arrangements, occurring at the situation*

So the first qualification for this benefit is that your business needs to be shut down by order of a Public Authority. A common insured example is a shopping centre or other large building finding legionella bacteria in their air conditioning cooling towers.

However, even if the business were to be closed by a Public Authority, the clause is always followed by wording to this effect;

*. . however there is no cover for highly pathogenic Avian Influenza or any disease declared to be a quarantinable disease under the Biosecurity (Consequential Amendments and Transitional Provisions) Act 2015 (as amended) irrespective of whether discovered at the location of Your situation, or out -breaking elsewhere.*

The wording of this clause can vary from policy to policy but the effect is the same.

On the 11th of March the World Health Organisation assessed COVID-19 to be a Pandemic. Hence, cover from general insurance policies is completely excluded, irrespective of whether the loss in revenue is due to a slowdown in local demand, hold ups with suppliers or the business being directly affected by the outbreak of the virus locally.

## Cancellation & Abandonment Insurance

Generally, Conference cancellation policy wordings exclude claims arising from Communicable Diseases – It only applies if the venue is closed by or under the order of any government authority as the direct result of a communicable disease which originates within the venue itself (e.g. Legionnaires disease).

Ultimately, Insurers do not want to cover global pandemics. The insurance is intended to cover unexpected perils, not known perils. This is once again a common exclusion across the insurance industry.

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## Employee Work Health & Safety

See below link:

Australian Government – ComCare

<https://www.comcare.gov.au/prevent-harm/coronavirus>

### Managing risks

Exposure to COVID-19 may present a health and safety risk to workers and other persons at a workplace. Identifying and controlling risks to workers, and other persons connected to the workplace, arising from exposure to COVID-19 may involve:

- Closely monitoring official advice, such as updates from the Commonwealth Department of Health
- Reviewing your organisation’s policies and measures for infection control, including educating workers on best practice
- Advising workers to self-isolate for 14 days if they undertaken ANY overseas travel, or been in close contact with anyone confirmed to have the coronavirus. The Australian Government currently considers mainland China, South Korea, Iran and Italy to be at higher risk for COVID-19.

Workers also have a duty to take reasonable care for their own and others’ health and safety. This includes ensuring good hygiene practices, such as frequent hand washing, to protect against infections.

### Guidance and resources

The World Health Organization has issued advice on practical measures to prevent the spread of COVID-19 in workplaces or to travelling employees: [Getting your workplace ready for COVID-19](#).

The Comcare jurisdiction is diverse and exposure to risks from COVID-19 will be specific to individual persons conducting a business or undertaking across the scheme. A range of official resources are available to help you meet your WHS duties and access the latest information on the outbreak and the Australian Government’s response:

- [Commonwealth Department of Health – latest advice](#)
- [WHS Act and Regulations](#)
- [Safe Work Australia](#)
- [Department of Home Affairs - advice on travel, including current restrictions](#)
- [Smart Traveller - current advisories for overseas travellers](#)

## Workers Compensation



Workers Compensation Specialist **Premium Strategies** have provided the following guidance:

For any preventative or post claim incident support we are more than happy to assist.

[www.premiumstrategies.com.au](http://www.premiumstrategies.com.au)

A virus (like COVID-19) is likely to be considered under the disease provisions of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act). For a disease to be covered it must be contributed to, to a significant degree, by the employee's employment (section 5B).

Employers should be committed to providing and maintaining a work environment that is without risk to health and safety in order to deliver on their commitments, and, to comply with the [WHS regulations](#), aim to identify exposure and associated [risks](#) to their people, and do what is reasonably practicable to eliminate those [risks](#), and where this is not reasonably practicable, to minimise those [risks](#).

As there is a potential for exposure to COVID-19 in many workplaces, we recommend the following measures to protect worker health including:

Frequently monitoring official Government sources for current information and advice;  
Reviewing and promoting policies around infection control and working from home;  
Communicating isolation/quarantine periods in accordance with advice from the Australian Government Department of Health including:

- when staff should not attend work;
- providing clear advice to workers about actions they should take if they become unwell or think they may have the symptoms of coronavirus, in accordance with advice from the Australian Government Department of Health and state or territory health department;
- Eliminating or minimising domestic and international work travel, in line with the travel advice on the Australian Government's (Smartraveller) website;
- Providing regular updates to workers about the situation and any changes to organisational policies or procedures;
- Contingency planning to manage staff absences; and
- Providing workers with information and links to relevant services should they require support.

There is also a duty to take reasonable care for our own health and safety and to not adversely affect the health and safety of others. Workers should always practice good hygiene and other measures to protect themselves and other against infection. This includes:

- Washing their hands often, with soap and water, or carrying hand sanitiser and using it as needed;
- Covering their mouth when coughing or sneezing, but not using their hands to do so;
- Seeing a health care professional if they start to feel unwell;
- If unwell, avoiding contact with others (including shaking hands or other touching, such as hugging).

Specific requirements are in place for people who have returned from a country or region that is at high or moderate risk for COVID-19, or think they may have been in close contact with a confirmed case of coronavirus. At risk countries and detailed isolation requirements are available from [www.health.gov.au/covid19-travellers](http://www.health.gov.au/covid19-travellers).

Any Staff that have recently arrived from overseas should self isolate for two weeks.

If any employee develops symptoms (fever, a cough, sore throat, tiredness or shortness of breath) within 14 days of leaving country or region that is at higher risk for COVID-19, or within 14 days of last contact of a confirmed case, they should make contact their Manager and exclude themselves from the workplace, arrange to see a doctor for urgent assessment and follow the guidance regarding isolation and quarantine.

We recommend that employees notify their Manager and/or Human Resources in the first instance to advise of their situation after seeking medical advice, and prior to returning to work.

Further to this, and from a workers compensation perspective, SIRA have published an update on their position with COVID 19 and the link can be found below

<https://www.sira.nsw.gov.au/news/bulletins/workers-compensation-bulletin-issue-88-march-2020>

Whilst we are working through uncharted territory here with COVID 19 and the pandemic, in theory the same rules apply when lodging a workers insurance claim in relation to COVID-19.

Each claim will be considered on its individual merits, having regard to the individual circumstances and evidence in relation to the claim before acceptance of liability. Consideration will be given to (but not limited to):

- work related travel to an area with a known viral outbreak. Including within Australia.
- work related activities that include engagement or interaction with people who have contracted the virus

To support employees and minimise the risk of contracting the virus, many employers are considering a work from home strategy.

For these employers a key risk for consideration is the 'at home' work environment – i.e. do they have an appropriate workspace? Are they working off the lounge? Are power boards overloaded? Is there a first aid kit available? Etc.

We recommend that businesses implementing a 'work from home strategy' undertake an ergonomics 'self-assessment' or alternatively have a qualified professional like an occupational therapist undertaken the assessment.

## Medical Industry

Below are some Q&A for the medical sector:

**Q: As a doctor am I covered if I treat infected patients**

A: Yes – claims are covered by your medical indemnity policy

**Q: What should my practice do to be ready for the virus?**

A: Health departments and RACGP are providing detailed information

Visit the Australian Government Department of Health webpage at <https://www.health.gov.au>

GPs can access further information at the RACGP website <https://www.racgp.org.au/coronavirus>

**Q: What do I do if I am unsure a patient does not fit the testing criteria?**

A: If you think a patient, who does not fulfil the case definition, should be tested, contact the CDC.

**Q: A patient wants a medical clearance Certificate for Covid 19. Can I give this?**

A: Health departments have indicated there is no testing to predict whether a patient will become infected with coronavirus and it is not possible to give a medical clearance certificate. You can provide information within the limits of what you know, i.e. history given and your clinical assessment. Be clear about the advice you can and cannot provide.

Things to consider include:

- How you can have patients alert you to possible coronavirus symptoms – i.e. when booking for an appointment or presenting for appointments or walk in visits
- What information may be provided on your practice website
- Preparing all staff (doctors, nurses and other staff) to deal with a suspected coronavirus case – necessary equipment, caring for the patient, protecting other patients, contacting local public health units and / or local emergency departments
- Ensuring all doctors, nurses and other staff are aware of what to do if you have a suspected coronavirus case
- Ensuring all staff are aware of what they should do if they are suffering symptoms of a potential coronavirus illness.

# Operational & HR Risks



## Introduction

Intercharge are not specialists in HR, or similar operational risks. However, we do partner with experts in all fields to ensure our clients obtain the best advice possible.

The below summaries have been issued by Source who are an award winning professional services firm that provide a holistic approach to legal, HR, governance and financial operations to businesses.

<https://www.sourcelegal.com.au/>

If you have any questions relating to the below information we would suggest contacting Source directly

## How does COVID 19 affect business contracts

*Force Majeure explained / By Stanislav Roth*

Coronavirus is resulting in substantial disruption of supply chains. Does a force majeure clause provide protection for parties affected by this disruption?

The short answer is, it depends on:

1. whether there is a force majeure clause in a contract; and
2. the language of the specific force majeure clause.

Force majeure provisions operate by excusing the affected party from its contractual obligations, during the period it is prevented from performing them due to a force majeure event. Force majeure is relatively common in supply of goods contracts (especially long-term supply contracts) but is less common in provision of services contracts (for example, construction contracts, professional services contracts).

In common law jurisdictions like Australia, force majeure is a creation of the contract. This means that, outside of a contract, there is no implied definition of force majeure. Rather, in order to determine whether a particular event falls within the ambit of force majeure, the specific wording of the relevant force majeure clause in the contract is critical.

If there is no force majeure clause in a contract, then the concept of force majeure does not apply to that contract.

Two types of force majeure clauses -

A force majeure clause would typically be drafted in one of two ways – as an inclusive clause or an exhaustive clause.

An inclusive force majeure clause would generally define a force majeure event as an unforeseeable event that makes it impossible or substantially more difficult for a party to perform the contract. An inclusive force majeure clause then usually provides a list of examples of events that would constitute force majeure event, such as earthquake, flood, war, terrorism etc. If an epidemic or infectious disease is not part of that list, it still may be able to be construed as a force majeure event if it's an unforeseeable event that makes it impossible or substantially more difficult for a party to perform the contract.

An exhaustive force majeure clause would define a force majeure event by reference to specific events, such as earthquake, flood, war, terrorism etc. If an epidemic or infectious disease or similar is not part of this list then it would not be a force majeure event.

Force majeure in existing contracts -

Therefore, if your project is impacted by delay or disruption caused by coronavirus, the first step is to check whether your contract contains a force majeure clause and then interpret that clause to see if the disruption caused by coronavirus falls within the ambit of this clause and how to trigger its application.

Once you identify whether delay caused by coronavirus may fall within the contractual definition of the force majeure event, it is important to follow the notification process that's usually prescribed in a force majeure clause. If the relevant notice is not given within the prescribed timeframe, it may preclude the affected party from being able to rely on the force majeure provision.

Force majeure in new contracts -

For new contracts, it may be a good idea to include a force majeure provision that expressly covers epidemics and infectious diseases. It may even be advisable to refer to coronavirus expressly. For example, the following can be included as one of the force majeure events:

“any occurrence of any local or international epidemic, pandemic or infectious disease, including COVID-19”.

However, it is not enough just to include this in the list of force majeure events, it is also important to ensure consistency within the force majeure provision. Force majeure clauses often say that a force majeure event must be unforeseeable and must occur after the commencement of the contract. Clearly, coronavirus is now here and delays it may cause are arguably foreseeable, so clear drafting is required to ensure that such delays are properly captured in a force majeure clause.

## HR Risk and Responsibilities

*Explained By Stanislav Roth / Source Legal*

Many businesses are preparing now for how to manage this complex and evolving situation.

Of most immediate concern for many businesses is how to address employment issues, such as how to protect your workplace, employee leave entitlements and preparing for the possibility of having to reduce your workforce.

We've created an [Employer Response Kit](#) to help your business understand and manage the situation. The Kit is a practical set of resources created by our legal and HR specialists to address the key questions being asked by employers.

### Download the COV-19 Employer Response Kit

We encourage you to download the COV-19 Employer Response Kit. You'll find the following on our [COVID-19 Business Response webpage](#):

- [COVID-19 Employment & Leave FAQs for Employers](#)
- [COVID-19 All-Staff Communication Template](#)
- [COVID-19 Workforce Reduction Options for Employers](#)

Please also refer to the Fairwork site for additional information

<https://www.fairwork.gov.au/about-us/news-and-media-releases/website-news/coronavirus-and-australian-workplace-laws>

## Staff Travel Template – Steadfast Version

The below template is an 'example only' of a company guideline that could be introduced to provide a staff travel framework relating to the virus.

### **Personal Travel overseas**

*Until further notice, should an employee choose to travel overseas country or region, then they will not be allowed to return to the workplace for a period of at least two weeks after their return to Australia. This period would need to be determined as to whether, it is annual leave, or part or full-time work if the role permits the employee to work from home.*

*We would encourage employees to consider deferring any overseas travel until the Coronavirus situation has passed.*

*Please refer to DFAT warnings and risk advice:*

<https://www.smarttraveller.gov.au/news-and-updates/coronavirus-covid-19>

### **Risk Management Consideration**

The coronavirus may impact revenue through production slowdowns, difficulties in delivering goods or services to the market, a significant fall in demand for the company's goods or services, and delays in customers paying outstanding invoices.

We recommend forming a working committee to evaluate the impact to the business as it continues to evolve, with accountability to the board or executive team.

Considerations should include:

- Reviewing the organisation's Work from Home capabilities, to ensure the business can continue to operate where possible in case of premises closure
- Reviewing existing credit and debt facilities to ensure that cash is available
- Communicating early with creditors if a slowdown may impact your ability to meet obligations
- Reviewing supplier and customer contracts for force majeure clauses, and evaluate exposures to contractual penalties for delayed payments or supply disruption
- Evaluating the potential impact any supply chain disruptions could have on customer relationships and keep key customers and other stakeholders informed
- Working collaboratively with key suppliers to maintain customer relationships and meet delivery obligations
- Using capital from other parts of the company to ensure on-time delivery to customers
- Reviewing material disclosure obligations to shareholders, particularly for listed companies

## Contributor Credentials

**Intercharge** Pty Limited are a privately owned Insurance Broker, who have been operating since 1982. Our website is [www.intercharge.com.au](http://www.intercharge.com.au) and our AFSL licence number is 238187.

Our philosophy is simple and fully transparent. We act on your behalf and will you to the insurance market in a professional and ethical manner and always ensure its bests interests are core to everything we do.

For any questions please contact us:

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