



## **COVID-19 AND BUSINESS INTERRUPTON INSURANCE**

*The application of Business Interruption insurance policies was a hot topic during the Canterbury Earthquakes and is yet again in the spotlight due to the Covid-19 pandemic. This is an uncertain and unprecedented time that comes with many challenges, particularly for businesses.*

Whilst some relief may be approaching with the shift to level 3 having taken effect on 28 April 2019 and a possible shift to level 2 next week, businesses that have suffered economic loss to date and continue to do so may be wondering whether or not they can make a claim under their insurance policy for Business Interruption.

A Business Interruption insurance policy is intended to cover loss that results from interruption to business activity. The starting point in assessing whether or not a claim may be made is to assess your specific policy wording. However, cover offered by Insurers is usually limited by reference to the cause of the business interruption. In reality, this limitation is likely to preclude assistance during a pandemic.

Business Interruption policies usually provide cover for interruption caused by damage to physical property. In some situations cover is extended to include interruption that is caused by damage to a supplier's premises resulting in an interruption to your business.

If you are covered by your Business Interruption policy you will be entitled to recover the losses, usually a reduction in gross profit, suffered during a defined indemnity period. This period is often approximately 12 months following the date of the event.

Unlike the Canterbury Earthquakes, the Covid-19 pandemic has provided a clear example of how significant business interruption losses can occur independently of physical damage to insured property. It is important to note that Business Interruption policies often exclude losses caused by notifiable diseases under the Biosecurity Act 1991, or infectious diseases notifiable under the Health Act 1956. Unfortunately for those hoping to make a claim, the coronavirus was added as an infectious disease notifiable under the Health Act on 30 January 2020, this exclusion, if present in your policy, will likely preclude a successful claim.

We learnt from the Canterbury Earthquakes that Business Interruption policies do not handle sequential loss well. Although there is little precedent applicable to the current pandemic situation, we believe the key to a successful Business Interruption insurance claim is good financial record keeping together with sound advice. Your lawyer, accountant and insurance broker are useful points of contact at this time.

We encourage you to check the wording of your specific policy and to make use of the government schemes available.

Kate Warren is an Associate of the firm and can assist with the review of your insurance policy. We are here to offer advice in all aspects of your business from employment issues to refinancing and beyond. Meares Williams has a variety of experienced lawyers ready to work with you.

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