



TRANSPORT INDUSTRY RISK UPDATE

COVID-19 considerations

June 2020



Insurance | Risk Management | Consulting



Transport businesses have specific insurance needs and risk exposures which require careful consideration, particularly in light of the current COVID-19 pandemic environment.

With more than 40 years' dedicated support to Australia's transport sector and access to exclusive insurance markets, Gallagher brings depth of experience and a demonstrated track record of providing strategic risk management advice to the transport sector.

This guide seeks to provide information on the scope and limitations of commercial insurance policies for transport businesses and offer perspectives specific to COVID-19 including planning for post-lockdown trading conditions, which may consist of changes to the way you provide goods and services to your customers.

It is important to maintain adequate insurance cover and have the ability to resolve emerging risk exposures which would otherwise be either underinsured or not insured at all. Key covers to consider include:

1. Management Liability insurance
 - o Management Liability
 - o Employer Practices Liability (EPL)
 - o Crime
2. Public Liability insurance
3. Cyber risk and data security
4. Workplace Health & Safety

Also included in the latter part of the guide is additional information including making a COVID-19 related claim.

Please get in touch should you have any concerns or would like to discuss your insurance.

Important:

Please contact your Gallagher broker or account manager if any of the following scenarios apply to your business.

- **Reducing insurance cover:** you have made, or are considering making, changes to your insurance cover, including limits of liability
- **The scope of business activity changes,** including moving aspects and remote working arrangements
- **Cash flow concerns** that are likely to impact your ability to continue trading and/or require structural changes to your business operation

Your Gallagher Transport broker is well positioned to help you navigate the current period of change, disruption and uncertainty, and ensure you maintain adequate (and appropriate) levels of insurance cover.

Looking for more information?

Visit: ajg.com.au/pandemic



Transport sector changes in the current COVID-19 environment

The COVID-19 virus is causing disruption and financial distress to businesses across Australia. Understanding the scope and limitations of your insurance program is key to knowing how to proceed during this uncertain time. Working closely with your Gallagher transport insurance specialist can help you to manage complexity and ensure you're equipped to lead your business through a period of change and uncertainty.

As the government eases lockdown restrictions, regional economies will start to slowly recover. This could lead to a spike in demand to deliver and distribute goods delayed by business closure and/or reduced operations, and at the same time lead to fluctuations in air and shipping rates.

The COVID-19 environment is stimulating changes across the transport sector, in these key areas:

- **Inter-state biosecurity and quarantinable acts legislation:** stricter controls are likely to be introduced governing the movement of goods and produce across Australia and internationally. This may lead to structural changes to accommodate increased delivery and distribution timelines, which could have unintended consequences, such as delays caused by incomplete paperwork or the need for technical assessments in response to a changing regulatory landscape.
- **Supply chain impact and disruption:** distribution delays, cancelled orders and shifting demand for domestic and imported goods all carry a material impact to the Australian economy. Transport operators are likely to experience peaks and troughs in the demand for their services, further impacted by disruption to sea ports and freight terminals including the clearing of backlogs.
- **Warehousing and distribution:** when the lockdown is eventually lifted there will inevitably be an initial surge in activity from existing stock locations and then again when shipments from Asia are received and distributed. The expected economic downturn in employment rates may provide access to an additional labour pool.
- **Road freight/trucking:** following the lifting of the lockdown, the road freight industry looks set to enjoy a brief surge in volume to backfill delayed orders and deliveries. Capacity is high, meaning that rates are likely to be low. Fuel prices, although higher than during the COVID-19 crisis, are likely to remain below recent averages.
- **Shipping, marine and cargo industry:** likely to be severely impacted in 2020, with volumes expected to drop by up to 20%. Despite the lifting of lockdown restrictions shipping volumes will fall in the short term due to international order cancellations and shifts in consumer demand. That said, as port terminals re-open and start to accelerate their response to the backlog, shipping rates may increase in response.
- **Air passenger services:** any return to pre COVID-19 conditions is likely to be hampered by health and safety concerns. Although capacity will gradually lift, fluctuating demand will impact air cargo rates.

We will continue to keep you informed on prevailing transport sector changes in the months ahead.



Maintaining adequate insurance cover and understanding COVID-19 implications

Insurance plays a critical role through all stages of business life, and during times of change and vulnerability insurance remains essential to business operations and continuity. Whether the insurances apply to your business assets, employees, clients and customers or members of the general public you service, core insurance remains vital to the ongoing protection of your business.

When assessing cash flow and other business continuity considerations, some businesses may opt to reduce limits, adjust the breadth or scope of cover, or cancel insurance covers altogether. Doing so may expose your business to undue risk and advice should be sought to fully understand the impact of making these decisions.

We strongly recommend contacting your Gallagher broker before making any changes to your insurance program.

Key steps you can take today

1. Review your current insurance program

Continue to work closely with your Gallagher account manager to resolve questions, address concerns and review any mid-term adjustments to current levels of insurance cover. Options, such as laid-up cover in commercial vehicle policies, are available to insure trucks taken out of service in certain circumstances.

2. Insurance market response

Gallagher is working closely with transport insurance underwriters to achieve the best possible outcome for clients, including consideration for what is required once the lockdown and travel restrictions are gradually lifted. Our overriding priority is to provide an interim solution that offers the flexibility required to adapt to an evolving commercial environment while helping you maintain adequate levels of insurance cover.

3. Update standard working practices to mitigate any risk to driver and employee health and safety

This includes using electronic documentation and alternative signature/confirmation of receipt methods, ensuring drivers do not allow passengers or customers to enter their cab, and adherence to social distancing guidelines when operating in close proximity to suppliers, customers and co-workers. This includes subcontractors and other parties working on your behalf.

4. Understand any delays to the transportation and delivery of goods that involves a contractual obligation to cover late delivery, port and terminal charges

This includes any event likely to trigger an insurance claim that requires insurer notification within a specified time period.

5. Implementing strict hygiene controls and in-cab sanitisation

Ensuring drivers follow the current hygiene and hand sanitisation guidelines, including keeping the cab's interior surfaces clean, with particular focus on the areas that are in regular contact (e.g. door handles, dashboard and door switches, gear stick etc.). Use of air conditioning sanitiser on a weekly basis is also recommended.

6. Subscribing to state and Federal Government alerts

Releases via their websites will help you remain across important legislative and regulatory changes and updates on economic and financial stimulus packages available to assist you. Safe Work Australia has published guidelines for the [road freight](#) and [warehousing and logistics](#) industries.

Management liability insurance

General information

Management liability is an 'all-risks' corporate liability policy that protects a company and its directors and officers against legal liabilities and statutory obligations.

A range of provisions fall under the management liability 'umbrella', including:

1. Management Liability

Includes cover for actions brought by shareholders and employees against company directors and officers and regulatory investigation as well as managing personal liability and insolvency related risk provisions.

2. Employment Practice Liability (EPL)

Covering employee related claims including a failure to promote and sexual harassment claims.

3. Crime

Covering employee fidelity issues (fraudulent activity, IP and property theft).

Actions can be brought against a company, its directors, officers and employees by a number of parties including regulators, employees, competitors, creditors, shareholders, clients and liquidators.

Detailed information is provided below on prevailing COVID-19 specific response from each of the management liability provisions, as well as a range of core insurances relevant to transport fleet operators.

Please note that this information is subject to change and it is recommended that you contact your Gallagher Transport specialist to discuss your specific situation and insurance arrangements at the earliest available opportunity.

Management Liability

With the broad scale impact to many Australian industries and sectors, as well as supply-chain disruption caused by shifting customer demand, factory shutdowns and office closures, business continuity plans are being put to the test.

Where the response of company directors and executives exposes gaps and failings in delivering a clear and robust plan of action, directors and senior management could be exposed to legal action. Potential claims scenarios may include:

- Poor employee communication, with limited access to information, training and guidance, and a general lack of COVID-19 pandemic response to guide employees through the required changes.
- Failure to implement adequate workplace health and safety provisions and effective management of return to workplace arrangements.
- Lack of planning on how to monitor systems and controls at the required level with increased remote working.
- Failure to implement appropriate strategies to maintain financial performance and adjust the operating model to accommodate changes to the business.
- A failure of technology and IT systems to enable the business to continue operating and provide the appropriate safeguards against cyber related risks.

We recommend that transport operators regularly review their management liability cover as part of their business continuity planning.



Employment Practices Liability (EPL)

EPL insurance is designed to respond to claims against the company and / or its employees relating to employment practices litigation. This typically includes cover for wrongful or unfair dismissal, discrimination, harassment, misconduct, wrongful retaliation, an alleged failure to promote and other perils.

The COVID-19 pandemic has forced employers throughout Australia to rapidly respond and make frequent and weighty decisions, including addressing remote work, pay cuts, workplace conditions and, more recently, determining how and when a return to work will occur as the lockdown restrictions are gradually lifted.

Given the complexity of managing a workforce, and that employers have been required to react quickly to the numerous different implications of COVID-19, we strongly recommend you speak with your Gallagher Transport specialist regarding any concerns related to your Employment Practices Liability as soon as practical.

Looking for additional support?

Gallagher's [Workplace Risk](#) practice is equipped to manage and respond to workplace risk and workers compensation questions, and are actively working with Australian organisations to support them with structuring remote workplace health and safety.

[More information available here.](#)

Crime, dishonesty and employee conduct

Remote working, growing concerns about continued employment and household incomes, and evolving work practices increase the risk of loss associated with fraudulent and/or dishonest practices by employees which may result in financial loss and/or reputational impact.

Actions that can be taken to safeguard your business include:

- Ensuring comprehensive background checks are undertaken when hiring new employees, and employment contracts include explicit obligations on the employee to operate with integrity.
- Reviewing HR policies and procedures to ensure they set out clear expectations of employee conduct and handling of commercially sensitive information.
- Ensuring anti-bribery and corruption policies and training are in place that outline expected standards of professionalism and integrity.

Dishonesty/misconduct exclusions may remove cover for claims arising from misconduct, such as willful breach of statute, dishonest conduct or fraud.



Public liability insurance

Warehouses, distribution facilities and office premises that are closed down or partially trading are still exposed to risks that may be covered by public liability insurance.

Employees working on site (whether the business is actively trading or not) may be exposed to risk of accidents and may also trip or fall while on the premises engaged in stocktaking, repairs and maintenance tasks.

Public liability insurance covers public areas such as car parks and business owners are liable for injuries occurring in these spaces. Business premises exposed to COVID-19 contamination should be treated with deep cleaning and sanitisation by an accredited service provider. This may be provided under your property insurance cover.

Cyber risk and security

As businesses operate under remote working and e-trading conditions, the number of malicious cyber incidents reported in Australia is increasing. Cyber risk extends to lost passwords, credit cards, voicemail and ID cards that allow a perpetrator to access information that enables fraudulent activity.

Some other practical, cyber security responses that can be taken include:

- Ensuring directors, executives and employees are fully aware of compliance requirements for privacy, data security and confidentiality laws relating to handling sensitive, health-related information they collect from their employees, as well as keeping remote working staff cyber secure.
- Assessing levels of IT and computer literacy, and providing online training and support, as appropriate. This includes subcontractors and third parties working on your behalf.
- Clarifying what constitutes a breach of trust in the context of inappropriate management and extraction of customer and financial information.

Stand-alone cyber insurance generally includes provisions for managing the impact of cyber-related business interruption, including mandatory breach notification and responding to third-party legal action.

Regular reviews of cyber insurance cover is important. Please contact your Gallagher account manager to discuss any concerns or questions, including where extended cover may no longer be appropriate to meet changing business requirements.



Workplace Health & Safety

The road transport industry is in a higher risk category due to the scope and nature of work undertaken by employees where remote working is not possible and social distancing can become more challenging. This includes interacting with customers and the general public during daily deliveries and when purchasing fuel.

All Australian states and territories have legislation that sets out your WHS obligations as an employer. In general terms, you are required to do everything reasonably practicable to ensure the health and safety of your workplace and your employees/contractors.

Many of the guidelines set out are similar to the obligations under Chain of Responsibility laws. Transport fleet operators need to assess employee (including contractors) risk exposure and identify ways to mitigate those risks.

When reviewing workplace health and safety requirements, consideration should be paid to the following:

1. Regularly consulting with your workforce and providing up-to-date training and guidance on how to maintain COVID-19 specific workplace health and safety, including support and contact numbers in cases of suspected exposure and/or contamination. This includes workplace, warehouse and in-vehicle requirements.
2. As COVID-19 restrictions are gradually relaxed, businesses, workers and other duty holders must work together to adapt and promote safe work practices, consistent with advice from health authorities, to ensure their workplaces are ready for the social distancing and exemplary hygiene measures that will be an important part of the transition.
3. Promote and embed safe working practices, ensuring adherence to the prevailing government advice, including social distancing and hygiene measures.
4. Continually monitoring the COVID-19 pandemic and reviewing directions and guidance issued by public health authorities and other government bodies.
5. Extensions to the liability of subcontractors carrying out services on your behalf are available on insurance policies, on the basis that the subcontractors operate under your standard terms and conditions. Information and regular updates should be provided to all third parties delivering goods and services and/or providing expertise as part of your normal business operations.

Health and safety also includes the emotional wellbeing of employees at a time when stress, uncertainty and concern is likely to be heightened for most employees.

Important note

Insurance cover is generally tailored to suit the specific requirements of a particular business. As such, policy wordings, limits of liability and the scope of cover will vary between insurers. Commercial liability policies do not generally include an exclusion for pandemic or infectious diseases, and we actively encourage clients to review policy wordings to identify and understand the implications of exclusions. Please seek advice from your Gallagher expert to ensure you fully understand the scope of insurance cover applicable to your business.

More information is also available on the [Pandemic Resource Centre](#)

Additional information

Are there policies that cover a COVID-19 or pandemic event?

There may be some coverage under certain environmental insurance policies for deep cleaning or decontamination of business premises, but each policy is unique and needs to be individually reviewed. Please get in touch to discuss any event that is likely to trigger a claim on your insurance policy.

Before engaging a cleaning services provider, we recommend that you get in touch to confirm whether costs can be recovered under your policy.

Lodging a COVID-19 related claim

Lodging a COVID-19 related claim requires the submission of documentation and supplementary information including details of losses, just like any other claim.

Tracking and reconciling this information while losses are being sustained in real time can be challenging.

We recommend starting the documentation process early, including the logging of dates, specifics about damages and any other information material to the claim. The information insurers require may vary depending on the type and scope of cover – we generally recommend reviewing insurer websites and/or requesting information directly for guidance on specifics.

The current lockdown conditions have left most commercial premises unoccupied for the time being. We are advising clients to, where possible, take the appropriate measures to secure the locations, periodically monitor them and mitigate risk of loss. Your property policy may include vacancy coverage limitations that need to be addressed with the insurer as soon as possible.

More information on submitting a claim is available at ajg.com.au/claims



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