



Champions of Business COVID-19 Guide

Every business owner in Ontario has had to adapt and deal with new challenges on a daily basis since the outbreak and escalation of COVID-19. From operating procedures, temporary closings, financial stress and employee safety – all of us have questions. We believe business owners deserve to be kept in the loop – so our team of Excalibur Defenders created a Q & A Guide focused on the following three areas:

1. BUSINESS INSURANCE

Provides an overview of how specific types of commercial coverages may respond to claims related to COVID-19, as well as some of the issues and limitations that may be encountered in the claims process.

2. KEEPING YOUR EMPLOYEES HEALTHY

Provides insight into keeping your workplace safe while working from the office or home.

3. BUSINESS, FINANCIAL & WELLNESS SUPPORT LINKS

Provides links to online government support programs, business updates and related health information.

The following information is not intended as legal advice or confirmation that coverage exists or does not exist, but serves only as a general guide of how common commercial coverages may respond.

It is recommended that you contact your Excalibur Insurance Broker directly to assess your specific situation, particularly if you have made changes in your operations following the COVID-19 outbreak. It is important to review these changes to ensure you have adequate coverage that fulfills any contractual obligations you have, while maintaining the protection you need.

IN THIS DOCUMENT, FIND ANSWERS TO: ..

- Your Business Insurance
- Protecting & Supporting Your Employees
- Resources



1) Can we get relief on paying my insurance premiums in the short-term?



Some of our insurers have said they will attempt to work with customers, while other insurers are maintaining payment requirements. The decision to allow a deferral of premium payment is made by the insurance company. Insurance companies, unlike other financial institutions, do not have collateral or assets they can attach to, which makes requests for premium payment deferral difficult for them to manage. We are advocating on a case-by-case basis on behalf of our clients for flexibility with payment terms.



2) Should I cancel my business insurance if we are not operating?



Absolutely not, and here's why. Loss or damage to property, equipment and vehicles can continue to happen while operations are shutdown or reduced. Pipes still burst in buildings; equipment can overheat or short out and cause fires; and inactive businesses are targets for vandalism and theft. Insufficient insurance could lead to co-insurance penalties or lawsuits from landlords - which would be applied in the loss adjustment, reducing any potential claims settlement. It is more important than ever to strike a balance between reducing the cost of your insurance premiums and deductibles and maintaining your cash flow obligations. Unfortunately, during volatile economic times, it is common to see an increase in claims.



3) How can I reduce my insurance premiums during this crisis?



There are options that can be considered to save on premiums, including amending coverage limits, removing coverages and adjusting deductibles. However, there are several factors to consider prior to making these types of changes:

- Do you have any contractual obligations that include insurance provisions on your buildings, equipment or stock? Mortgages, loans and leases typically have insurance obligations that must be met. Before coverage is amended it is important to review the contract terms. Changes to the insurance program may require changes to the lending terms.
- Vehicle leases and financing programs commonly have specific coverage requirements. Prior to parking units that are not being driven and deleting liability or collision coverage, make sure the lender consents to removing the coverage. Also, it is important to ensure these units are not parked or sitting idle on government roads.
- Tenants in leased or rented space likely have a lease agreement in place with the landlord. The lease will contain insurance provisions for the tenant. It is important to review your lease obligations and seek approval from the landlord prior to making any changes.
- Have you agreed to have insurance in place for specific clients or jobs? Will customers or vendors require specific coverages before you can attend a job site or ship your product?
- Franchise agreements have specific clauses requiring insurance to be in place. Any changes to your insurance typically must be approved by the franchisor.
- If you have Certificates of Insurance issued to customers that require these for their own contractual obligations, please be mindful that these certificates typically have a 30-day notice clause related to making any material changes.



4) Am I covered for financial losses related to the COVID-19 outbreak?



The short answer unfortunately is, probably not. Based on an analysis of wordings for insurance products currently available on the market, pandemics like the COVID-19 virus would not fall within their scope of coverage in most cases. Here are the common coverages for most Commercial Business Policies

BUSINESS INTERRUPTION INSURANCE

Business Interruption Insurance provides coverage for lost revenue arising from physical damage to insured property at the premises, caused by a covered peril. Pandemics are not usually covered perils, as the introduction of a virus does not cause a physical loss to property, which must be evident in order for insurance to be triggered.

COMMON EXCLUSIONS

Many policies contain a "Contamination Exclusion," which could apply in the event of a COVID-19 outbreak at an insured's premises. This means that any loss, cost or expense arising out of testing for, monitoring of, clean up, removal, containment or treatment of a noticeable infectious or contagious disease, including but not limited to viral or bacterial infections, is not likely to be covered.

CIVIL AUTHORITY COVERAGE

Commercial property policies may include coverage for losses due to a forced closure by a government order resulting from physical damage to adjacent or nearby property. Again, there must be direct, physical property damage in order to trigger the coverage. You must also be able to establish a causal connection between the government order and the damage suffered. Otherwise, there will likely be no coverage. Civil Authority coverage is typically limited to a maximum of 30 days.

CONTINGENT BUSINESS INTERRUPTION COVERAGE

Contingent Business Interruption coverage protects against economic losses due to supply chain disruptions resulting from direct physical loss or property damage on the premises of the direct supplier or indirect supplier, on whom the insured depends for its business operations. Unfortunately, disruptions due to COVID19 would probably not be covered.

POLICY EXTENSIONS OF COVERAGE

Some insurers may provide policy extensions, such as "Outbreak Extra Expense" or "Restricted Access" coverage under their Civil Authority coverage extension, but again, in order to trigger coverage, there must be direct physical loss or damage to any property in the vicinity of the premises and such loss or damage must be directly caused by an insured peril.

Please note that in order to trigger this coverage, someone at the insured premises would have to be diagnosed with a contagious or infectious disease, and the business would need to provide proof of closure resulting from an order by civil or health authorities.



5) If we are sued by someone alleging they contracted COVID-19 as a result of the business staying open, are we covered?



Negligence is the primary factor in determining liability, therefore coverage would not respond to pay damages to a customer or invited person who contracted COVID-19 unless it was proven that your organization acted negligently and thus caused a person to contract the virus. Healthcare and hospitality industries are the most likely to be vulnerable to these claims. Typically, these types of claims would involve a bodily injury lawsuit, and the policy should provide a legal defense against a claim for failing to protect others from exposure to infection on the insured's premises. Should an incident arise, and you are in receipt of a demand letter, contact your Excalibur Insurance Broker and we will report the claim to your insurers.





6) Do I need to notify the insurance company if my building is going to be vacant?



Insurance policies allow for 30 days vacancy before your insurance company must be notified. Once notified, the insurance underwriter must either provide approval that coverage remains as is or the policy must be revised to include what is commonly referred to as a “Vacancy Permit.” If you are going to have a vacancy, contact your Risk Advisor immediately.

We highly recommend you do the following to protect your property during the vacancy:

- Have the building checked twice a day at a minimum inside and out – and have a log book as proof. Once in the morning and once in the evening is preferred. Take a walk through, paying particular attention to any areas with plumbing such as washrooms, kitchens and mechanical rooms.
- Keep alarm systems armed and maintain a normal level of exterior and interior lighting.
- Have a minimum of one vehicle on-site to create the appearance that someone is in the building.
- Make sure the heat is on and operational.
- Keep exterior areas swept and clean to discourage vandalism.



7) Can I cancel my business policy?



Insurance can be canceled at any time. Premiums paid would be refunded for the remaining policy term. Each policy wording is subject to its own cancellation terms. It is important to be consider the insurance requirements of any contracts and loan commitments. Your business may still be exposed to certain risks and we encourage you to speak with your Risk Advisor before making a decision to cancel.



8) Are we required to pay employees who are not at work due to COVID-19?



If an employee is sick or suspects that they may have the virus, the employee should be encouraged to stay away from the workplace and obtain medical advice. The employee may be eligible for sick leave or employment insurance (EI) benefits.

If an employee is diagnosed with COVID-19 and is not working, then the employer is not required to pay the employee. The employee may be eligible for sick leave benefits provided by the employer depending on the terms of the plan. If the employer does not provide sick leave benefits, the employee should be eligible for EI benefits as discussed below.

A slightly different situation arises where an employee cannot work because they are required by health officials to self-isolate due to contact with a person with COVID-19. In terms of sick leave benefits, employers who self-insure their short term sick leave plans may elect to extend coverage to employees in these situations who are not ill but are required to self-isolate due to exposure to the virus. Employers who have insured sick leave plans should consult with the insurer if these types of absences will be covered by the plan. The employee may be able to receive EI benefits if they meet the EI definition of quarantine. Also, employers should consider allowing employees to access their paid vacation time for this period.

Another scenario is where you require an employee to self-isolate due to the fear that the employee may have come into contact with someone outside the workplace with COVID-19, but the employee themselves is not sick and a health official has neither recommended nor ordered them quarantined.

In this case, you should consider continuing to pay the employee since an employer's fear alone is likely insufficient reason to ban the employee from work. It is important to be mindful of possible claims of constructive dismissal or breach of contractual wage provisions if an employee capable of working is required to stay home and is not paid.

Given the interest in containing the spread of the disease, you may wish to encourage employees to work remotely to the extent that is possible. Employees who are working remotely are entitled to receive their regular pay and benefits. Employees should also be able to access vacation if they choose.



9) If we are an essential service, what can we do to prevent the spread of COVID-19 in our workplace?



REMINDEMPLOYEES TO TAKE THESE PRECAUTIONS FOR PREVENTING THE SPREAD:

- Wash your hands often with soap and water for at least 20 seconds.
- Avoid touching your eyes, nose or mouth with unwashed hands.
- Avoid close contact with people who are sick.
- Cough or sneeze into a tissue and dispose of it immediately or into your sleeve instead of your hands.
- Stay home if you are sick to avoid spreading illness to others.

TO KEEP YOUR WORKPLACE SAFE:

- Keep up to date on federal, provincial and municipal guidelines and recommendations and incorporate them into your operations.
- Be prepared to operate with a temporarily reduced workforce.
- Plan for downsizing services as well as circumstances which may require a surge in services.
- Stockpile items such as soap, tissue, hand sanitizer, cleaning supplies, and any recommended Personal Protective Equipment.
- Provide employees and customers with easy access to infection control supplies.
- Keep surfaces clean. Instruct facilities personnel to clean surfaces thoroughly.
- Minimize group meetings to reduce the potential for transmission.
- Develop policies and practices that, if necessary, can be introduced to separate employees from each other, customers, and the general public.
- Identify a team to serve as a communication resource so that employees and customers have access to accurate information throughout the crisis.
- Work with your insurance provider, and provincial and municipal health agencies to provide accurate information to employees and customers.
- Assist employees in managing additional stress and mental health (*i.e. Employee Assistance Program – EAP*).
- Work with employees to address leave, pay, transportation, childcare, absences, and other human resource issues.

SECTION 2 - Keeping Your Employees Healthy

**10) Can we still have meetings?**

If possible, have remote working meetings via video conference or calls.

**11) Can I be accused of discrimination if I advise someone to go home?**

Human rights legislation applies in that employers cannot treat employees or members of the public differently or assume they might be infected with COVID-19 on the bases of their race, place of origin, citizenship, ethnic origin or ancestry. Assuming that someone has the virus because they happen to have exhibited one of the symptoms of the virus, and because of an assumption about where they are from based upon how they look would most likely be considered discrimination. If an employer were aware of this differential treatment and chose not to respond, they could be exposed to liability since employers are in most cases vicariously liable for the actions of their employees.

**12) Can our employees still travel?**

All business travel should be restricted. As of March 13, the Government of Canada has issued an Official Global Travel Advisory advising Canadians to “avoid non-essential travel outside of Canada until further notice.” Therefore, like the Government of Canada, we encourage all employers to discourage employee travel outside of Canada. Furthermore, we also recommend against travel to areas where there have been reports of community spread of the virus.

If employees do travel overseas or to areas with reports of community spread of the virus, please know that the Canadian government is requiring all travelers from abroad to self-quarantine for 14-days post-return.



SECTION 3 - Business, Financial & Wellness Support Links

Financial & Business Support

[Canada's COVID-19 Economic Response Plan - Support for Business](#)

[Small Business Resources for Dealing with COVID-19](#)

[Canadian Federation for Small Business: COVID-19 Questions](#)

[Federal Government Fiscal Stimulus Package in Response to COVID-19](#)

[Keeping Your Workplace Safe](#)

[TEC Canada Business Support During This Time of Crisis](#)

[COVID-19 Business Continuity Spectrum Employment Law](#)

[Business Communications During COVID-19](#)

[COVID-19 Action Plan for CEOs](#)

Excalibur Insurance



[We're Open During COVID-19](#)

[Missed Insurance Payments During COVID-19](#)

[How Insurance Companies Are Supporting Policyholders During COVID-19](#)

Wellness

[8 Essential Tips for Working from Home during the Coronavirus Pandemic](#)

[Maintaining Mental Well-Being During Quarantine](#)

[How to Balance Working From Home and Being a Caregiver](#)

[The Dangers of Working Alone on the Farm](#)

COVID-19 Updates

[Government of Canada: COVID-19 Outbreak Update](#)

[World Health Organization: COVID-19 Outbreak Updates](#)

[Province of Ontario: COVID-19 Updates](#)

Please note that the information provided in this guide contain generalizations and do not necessarily apply to all situations. It is highly recommended that you speak directly to your Excalibur Insurance Broker for a thorough analysis and review of your business insurance and risk management strategy.