

# Considerations for Multinational Companies

---

**Last updated:** April 20, 2020



**The emergence of the novel coronavirus (COVID-19) has caused governments around the world to close borders and restrict travel with subsequent disruption in trade.** This has, from an economic perspective, exposed the deep interconnectivity of the global economy and revealed an adverse concentration of risk within global supply chains. Industries across the spectrum have been abruptly presented with heightened challenges in an already-complex framework of global interdependencies.

Multinational companies are focusing on real-time risk mitigation and business continuity protocols while turning their immediate attention to the protection and well-being of their global employees.

In this article, we focus specifically on local workers' compensation and employer's liability coverages in a few of the most affected countries outside the United States, providing early guidance on how these coverages might respond to COVID-19 claims and highlighting potential considerations or exceptions. We have also included commentary on the application of U.S.-based foreign voluntary workers' compensation and employers' liability policies.

## *Foreign voluntary workers' compensation/employers' liability*

- Foreign voluntary workers' compensation is intended to provide coverage to employees traveling for work outside their home country.
- While most workers' compensation policies respond to injuries arising in and out of the course of employment, it is often viewed that employees traveling outside their home country would not be there but for the necessary course of their employment, so wording and coverage afforded may be broader with some carrier-specific limitations.
  - For example, many policies cover traveling employees from the moment they leave for a business trip outside the U.S.
- For U.S. nationals, an employee's statutory state-of-hire benefits for medical and indemnity apply.
- For third-country nationals and local nationals, statutory country-of-hire benefits applies.
- Disease and endemic disease coverage are often extensions offered to employees who come into contact with a local or region-specific disease; however, it is important to note that the World Health Organization (WHO) has classified COVID-19 as a pandemic and a global health emergency.
- Generally speaking, for disease coverage to apply, policy wordings require the conditions of employment must be found to cause or aggravate such disease.
  - The last day of exposure to the conditions causing or aggravating such diseases must occur within the policy period and employees must file a claim within a set period, such as 36 months, following the date of injury.
  - An endemic disease must reasonably be thought to have been contracted by being in a place as a result of employment, and the employee must have been in such place where the disease contracted is known to occur.

## *Canada*

- Local status:
  - Most provinces have enacted guidance for workplaces to change hours of operation, close for a period or encourage employees to work from home.
- Workers' compensation & employers' liability:
  - Workers' compensation is monopolistic, and each province has a separate governing body. Employers must purchase coverage directly from the Provincial Board (of their province of operation), unless granted an exemption.
  - Employers' liability is typically purchased as an extension of the general liability policy and will respond to claims for gross negligence.
- Response to virus:
  - In Canada, the response and application of workers' compensation coverage varies by province.
  - Claims will be reviewed on a case-by-case basis to determine if coverage applies for COVID-19. For workers' compensation to be triggered, it must be concluded the contraction of the illness was during the course of employment.
  - In all provinces other than Saskatchewan, Newfoundland and the West Territories, workers' compensation boards are providing relief to employers regarding premium payment. These benefits vary, but may include:
    - Deferring payment due dates.
    - Waiving late fees.
    - Extending payroll reporting requirements.
- Special exceptions/considerations:
  - Canada has developed the COVID-19 Economic Response Plan. This is a national initiative developed to provide relief to those affected by this pandemic. Benefits include:
    - For companies:
      - Establishing a Business Credit Availability program.
      - Providing small businesses with wage subsidies.
      - Extension on time to file taxes.
      - Increasing available credit for farmers.
    - For individuals and families:
      - Benefit increase of \$300 through the Canada Child Benefit for parents filing taxes.
      - Via the Canada Emergency Response Benefit (CERB), a taxable benefit of \$2,000 a month, for up to four months, can be applied for eligible workers who lost income due to COVID-19.



## *China*

- Local status:
  - Following wide-ranging actions by the Chinese government to contain the spread of the virus, the focus for most employers in China is on workplace safety and on the return of workers to full productivity as soon as possible.
- Employee compensation & employers' liability:
  - Employee compensation is compulsory in some provinces and is facilitated through a state scheme.
  - Employers' liability is often procured to supplement the scheme or provide coverage in provinces where the employee compensation scheme does not apply.
    - The general take-up rate of employers' liability in China has trended higher in recent years, but uptake remains comparatively low by indigenous companies.
- Response to virus:
  - Chinese authorities will likely not consider COVID-19 illnesses as an "injury" arising out of the course of employment to trigger coverage under local employers' liability and employee compensation policies.
    - It remains to be seen, but appears likely, that exceptions will be made for employees working in certain medical and related industries.
  - Local China employers' liability policies typically exclude sickness, however broader coverage may apply where an employee death occurs within 48 hours of any injury at work. The burden of proof is on the employee (or their estate) to prove that the injury occurred in the course of employment.
- Special exceptions/considerations:
  - Virus coverage can be offered as an extension to local employers' liability policies at a limit between 100K and 300K RMB, with certain exceptions including age (65), although the current COVID-19 virus is expected to be excluded.





## *France*

- Local status:
  - Multinational companies have followed the broad containment measures enacted by the government.
- Employee compensation & employers' liability:
  - Workers' compensation is provided through the social security system; the sickness branch is managed by the National Health Insurance Fund for Salaried Workers (Caisse nationale de l'assurance maladie des travailleurs salariés - CNAMTS). Membership is compulsory for all private sector employees (exclusions apply, such as for employees in the agriculture sector).
  - France also has a state-financed comprehensive health plan which covers its citizens for any injury or illness sustained, whether suffered on the job or otherwise. Employees also receive a complementary "mutual" health cover, which is typically combined with life insurance, serving to compliment the underlying state financed plan. Should any citizen not be employed or otherwise not have access to complementary "mutual" cover, the state plan will respond.
  - Employers' liability in France is an extension to general liability, known as "faute inexcusable." This extension applies in cases of employer gross negligence, or clear failure to meet the obligation of employee safety.
- Response to virus:
  - At the time of this writing, it is understood that workers' compensation and employers' liability will both extend to cover employees working from home and their protections and rights as employees remain unchanged as a result of employers' actions taken to combat the spread of the virus
  - No restrictions on coverage for virus or pandemic have been presented.
- Special exceptions/considerations:
  - None at this time.



## *Germany*

- Local status:
  - The German government has recommended employees work from home, though there is no statutory order making it mandatory. Germany is in partial lockdown, with only certain classes of business, such as grocery and drug stores, remaining open to the public. A curfew has been imposed in some cities.
- Workers' compensation & employers' liability:
  - Comprehensive coverage against work-related accidents and disease, including accidents on the way to and from work, is provided by statutory professional cooperatives as part of a government plan.
  - If a cooperative were to seek recourse against an employer following an act of gross negligence, coverage would be available under the company's general liability policy, rather than a separate employers liability policy.
- Response to virus:
  - In Germany, it is currently unclear how workers' compensation coverage responds to employees who contract COVID-19.
  - For employees working remotely, who may be injured while working remotely, full workers' compensation benefits may apply.
- Special exceptions/considerations:
  - In response to COVID-19, the German government has implemented several measures to provide relief to businesses, such as:
    - KfW, a state-owned German bank, is working with financial institutions to provide loans to affected companies. This loan is also available for freelancers and those who are self-employed.
    - Corona-Soforthilfe-Program: This grant provides immediate relief for small companies with 5-10 employees. The benefit is 9,000 to 15,000 Euros for 3 months without repayment.
    - Various tax deferrals.



## *India*

- Local status:
  - The Indian government has ordered a country-wide lockdown, which is currently in place until May 3, 2020. Most educational institutions and commercial establishments have been ordered to shut down. India has also suspended all tourist visas. Fifty-three percent of businesses are known to have been affected by the interruption of business operations, and this has led to increased salary reductions and layoffs.
- Workers' compensation & employers' liability:
  - Workers' compensation coverage is not compulsory for employees who make more than \$300 a month, but employers are strictly liable for work injury and are required to provide evidence of employee compensation in case of an injury.
  - Workers' compensation is administered through the ESI (Employees' State Insurance) scheme.
  - Employers' liability is typically purchased as an extension of the general liability policy or as an extension of the workers' compensation policy and defends the company against alleged gross negligence.
- Response to virus:
  - In India, it is currently unclear how workers' compensation coverage responds to employees who contract COVID-19.
- Special exceptions/considerations:
  - In response to COVID-19, the Indian government has approved 15,000 crores (U.S. \$2.1 billion) in aid for the healthcare sector for personal protective equipment, ventilators, developing testing facilities and ICUs, and to train medical workers.
  - India donated 74 crores (U.S. \$10 million) of funds classified as COVID-19 Emergency Fund for the South Asian Association for Regional Cooperation (SAARC).





## *Italy*

- Local status:
  - The Italian government acted comprehensively to quarantine the country, closing all businesses except banks, financial institutions and grocery stores/pharmacies.
- Employee compensation & employers' liability:
  - Workers' compensation is compulsory and provided through the Italian Workers' Compensation Authority (INAIL).
  - If an "accident" is a result of negligence on the part of the employer, or a breach of statutory duty, INAIL will seek recovery from the employer.
  - Most companies purchase an employers' liability extension to local general liability policies.
- Response to virus:
  - There has been no formal guidance issued by INAIL as to coverage for employees affected by COVID-19.
  - INAIL has communicated that smartworking/homeworking during the quarantine period will be equivalent to working at an employer's location. Thus, at this time, it is understood that any injury or illness sustained by an employee while smartworking/homeworking will likely be considered as an occupational accident and covered by the workers' compensation system.
  - Employers' liability insurers will, therefore, likely accept subrogation claims from INAIL if the employer is found to be negligent
  - Personal accident insurance may extend additional protections for non-occupational accidents.
- Special exceptions/considerations:
  - Companies that sustain reduced work hours or layoffs of employees may petition a state fund called the Cassa Integrazione (CIG) to seek financial support to continue employee salaries up to 80% of pre-virus levels.
  - In response to COVID-19, Italy's largest private insurer, Generali, is offering a Coronavirus Treatment Policy that pays a daily stipend for those under quarantine or in medical care. Policies inceptioned at any time during this crisis will expire December 31, 2020.
  - Virtual workshops for clients providing general consulting services on salient COVID-19-related topics such as crisis communication, business continuity, emergency management and claims advisory services are being hosted by larger brokers and insurance companies





## *Netherlands*

- Local status:
  - Quarantine is being encouraged. Businesses with the risk of physical distance between people of less than 1.5 meters are closed, including schools/universities, sports facilities, and bars/restaurants (except carryout, drive-thru and delivery). A stay-at-home order has also been enacted.
- Workers' compensation & employers' liability:
  - Employers and employees working in the Netherlands must make contributions to the Dutch social security system (via payroll tax deductions), which allows them to be insured under the:
    - Sickness Benefits Act.
    - Unemployment Insurance Act.
    - The Health Insurance Act.
    - The Work and Income according to Labor Capacity Act
  - Employers' liability is typically purchased as an extension of the general liability policy, and defends the company against alleged gross negligence
- Response to virus:
  - In the Netherlands, workers' compensation coverage for COVID-19 is generally excluded under the "Epidemic, Pandemic and contagious diseases" exclusion. However, it will be reviewed whether certain exceptions may be made.
- Special exceptions/considerations:
  - In response to COVID-19, the Dutch government has implemented the Temporary Emergency Measure Bridging for Employment (NOW) to provide relief to businesses.
  - Businesses that suffer a loss of turnover due to COVID-19 can be reimbursed up to 90% of wage costs from March 1, 2020, including flex workers. This is subject to:
    - Employers not terminating staff during the subsidy period for business economic reasons.
    - Employers continue to pay wages.

## *Singapore*

- Local status:
  - The government of Singapore has implemented quarantine, known as a “circuit breaker period,” to curb the spread of COVID-19. The quarantine began on April 7, 2020 and is currently set to expire May 4, 2020. All “nonessential businesses” have stopped business operations. “Essential services,” such as banking and finance, continue to operate. Work from home is being encouraged when possible.
- Workers’ compensation & employers’ liability”
  - Workers’ compensation is compulsory in Singapore for manual employees and nonmanual employees earning less than SGD 2,100 per month.
  - Employers are not mandated to purchase workers’ compensation insurance for employees engaged in nonmanual work who earn more than SGD 2,100 per month, but they are still liable to pay compensation in the event of an injury sustained at work.
  - Employer’s liability (Common Law) is not compulsory in Singapore, but this coverage is generally included to supplement the local worker’s compensation policy.
- Response to virus:
  - Work injury compensation insurance covers the employee if COVID-19 is contracted during the course of work. For employees working from home, it must be proven COVID-19 was contracted while carrying out the duties of their employment
  - For insurance protection, the Ministry of Manpower (MOM) has amended the Work Injury Compensation Act to state explicitly that COVID-19 is covered.
  - For employees working remotely, it appears full employers’ liability benefits apply.
- Special exceptions/considerations:
  - In response to COVID-19, the Singapore government has passed both the Unity Budget and the Resilience Budget to help affected companies. Benefits include:
    - Unity Budget
      - Job support scheme.
      - Enhanced enterprise finance scheme-SME working capital loan.
      - 25% corporate income tax rebate for 2020, up to \$15,000 per company.
      - Expanding enterprise grant to support 3,000 business transformation projects.
  - Resilience Budget
    - Accelerated payouts under wage support schemes (total payout of \$5.6 billion by the end of May 2020).
    - \$500 million in wage credits.
    - Enhanced property tax rebates.
    - No property tax for qualifying companies.
      - 30% property tax rebate for businesses (other than residential properties).
      - One-year freeze on all government fees and charges, April 1, 2020-March 31, 2021.



## *South Korea*

- Local status:
  - The South Korean government has been highly engaged in managing the local response to help contain the spread of the virus.
  - The government issues regular SMS warnings to all citizens with real-time updates, including vital information on status of medical and social services, availability of testing kits and protective equipment, and access to food and water for those in need.
- Employee compensation & employers' liability:
  - Workers' compensation is compulsory and compensation for occupational injury and disease is mainly provided by the social security system.
  - Employers' liability policies are generally purchased by larger companies to cover claims for "top-up" compensation based on negligence.
- Response to virus:
  - At the moment, it is understood that virus and pandemic are not excluded from these local policies.
- Special exceptions/considerations:
  - Most multinationals are following the recommendations and policies of the Korean CDC and local governments.
  - Business continuity plans, disaster recovery and risk mitigation are all in focus at the executive level of local conglomerates, and plans are being shared broadly across industries.





## *Spain*

- Local status:
  - Government-mandated closures of nonessential business and broad restrictions on movement of citizens in Spain have resulted in a virtual countrywide lockdown, like that of Italy.
- Employee compensation & employers' liability:
  - Workers' compensation is compulsory and provided through a state scheme.
  - Employers' liability policies cover occupational accidents during working hours and on journeys to and from work, but not typically to occupational disease.
- Response to virus:
  - It is unclear whether local EL/WC policies will respond to injuries arising at home during quarantine, but it is currently expected that they may respond.
  - The facts and circumstances will prevail upon review of any specific claim.
- Special exceptions/considerations:
  - None at this time.

## *United Kingdom*

- Local status:
  - Employers have both a statutory and common law duty of care for people's health and safety at work and the risk of potential criminal and civil sanctions may exist as a result of the pandemic.
- Employee compensation & employers' liability:
  - In the UK, industrial injury and disease is compensated for partly through the social security system and partly by compulsory employers' liability insurance.
  - Employers' liability is compulsory for private sector companies to insure their legal liability against occupational accident or disease.
- Response to virus:
  - Employers' legal duties to look after their staff extends to working at home. By carrying out a home worker's risk assessment (typically self-assessment), employers will be able to identify and deal with any health and safety risks that cannot be remedied by the individual themselves following guidance as far as is "reasonably practicable."
  - Employees working from home should be instructed to notify their employer in the event of them suffering an accident related to their work activity while working at home. Similarly, they should also report pains and strains which they suspect to be work related.
- Special exceptions/considerations:
  - The Health and Safety Executive (HSE) has updated its guidance following the government announcement on March 16, 2020 to state, "There is no increased risk from DSE work for those working at home temporarily. So in that situation employers do not need to do home workstation assessments." There is no guidance as to what constitutes 'temporary' and full information can be found on [the HSE website](#).
  - An indirect impact of COVID-19 will be the ability of businesses and their insurers to investigate existing claims, particularly when claims inspectors are unable to attend sites. In those circumstances, clients and insurers should proactively seek extensions of time from claimants' representatives in order to minimize the risk and costs of pre-action disclosure applications.
  - Given the nature of COVID-19, and the proportion of the population expected to develop the condition over the next few months, any claim presented on the basis that the condition was contracted due to negligence of an employer would appear to be difficult to prove, particularly on causation, although it is not a given that claims of this nature will not arise in the future.
  - Multinationals should consider their workforce, identify and review the risks they face and the activities they undertake. It needs to be ensured (and evidenced) that a dynamic and 'reasonably practicable' approach is taken in reviewing current ways of working and implementing any new controls required considering the current pandemic. This should incorporate (but not be restricted to) all government guidance.

While the focus today is on the health, safety and well-being of employees and business continuity plans, many multinationals are considering future risk management issues such guarding against a new threat of cyber issues, improving workforce shelter-from-home dynamics and managing the diversification of global supply chains. We will continue to keep this information up to date, adding considerations and countries as the situation evolves.







---

UNCOMMONLY INDEPENDENT