

COVID-19: Managing Work Stoppages Under Construction or Erection All Risks Insurance Policies

COVID-19 continues to spread globally, presenting unprecedented risks to people, businesses, and economies. Organizations must prepare to respond to and recover from the impact to their people, operations, and business as any delay could mean significant consequences later.

Many project sites will soon be shut down due to government intervention, or progress will be slowed, as global supply chains feel COVID-19's impact.

Many insurance contracts include exclusionary language relating to partial or complete cessation of works. Other contracts that cater automatically for work stoppages generally impose specific reporting or risk management obligations on the insured.

Regardless of the policy specifics, insureds should observe their duty to notify insurers of any material change in risk. Many insurers would argue that a closed site presents a different risk to a working one — particularly in respect to risks such as fire or theft.

Where the project involves refurbishment of existing property, property insurance is also likely to have conditions around changes in risk profile, including unoccupancy.

In addition to defined reporting requirements, cessation-of-work clauses commonly include the need to ensure:

- The site is regularly inspected.
- Adequate security is in place.
- Reasonably practicable steps are taken to safeguard insured property from physical loss or damage, and/or related third-party liabilities.

Regardless of the strength of the obligation within the policy wording, it is prudent to inform your insurers of a site closure or change in intended working practices as soon as you become aware of them. Being able to demonstrate you have carefully considered the control measures you put in place can be very important – especially in the event of a claim.



Securing a Site During Work Stoppage

While actions should be considered on a site-by-site basis, Marsh JLT Specialty recommends the following key actions:

1. Review the insurance contract for specific clauses relating to cessation of works (partial or in full), and clauses relating to notification obligations concerning material changes in risk.
2. Inform site managers if the policy wording includes prescriptive language, including requirements to safeguard property. Seek site managers' confirmation that such conditions are being complied with.
3. If the policy wording includes exclusionary language, prepare a formal submission for your insurer, including the proposed risk-control measures. This will allow your broker to negotiate for coverage on your behalf.
4. Regularly inform and update your broker and insurers, as small changes to onsite activities can change your risk profile considerably.
5. If the policy has been arranged by another company (either the owner or contractor) to include you as a co-insured or additional insured, ensure they are informed of the changes.

Delay in Start Up (DSU) or Advance Loss of Revenue coverage, if purchased, will often be limited to events that result from insured physical loss or damage; however, one or more policy extensions might introduce additional triggers for the coverage. Speak with your broker to establish what coverage is available under your policy.

Notwithstanding any potential lack of coverage for COVID-19's impact, companies should try to maintain a clear record of construction progress up to, and including, the point of site closure. Should an insured event take place after site closure — including physical loss or damage from natural perils — adjustment for delay claims will be far easier if you can demonstrate the actual project progress at the point work stopped.

Although many companies will have robust systems in place, below are some practical tips for a construction site if it has to close.





Site Safety and Security

SITE SECURITY:

- Ensure site hoarding is secure and, if the shutdown is for an extended period, implement an at least weekly monitoring system to ensure it remains secure and that there are no fire/safety/water damage issues.
- Consider CCTV protection.

SAFETY:

- Secure any open excavations on site with, as a minimum, edge protection to prevent any falls into the excavation if people do manage to access the site.
- Ideally, consider covering or filling the excavation if the closure is for an extended period.
- Ensure that regular and/or statutory scaffolding inspections continue, particularly after any bad weather.

WATER DAMAGE:

- Turn off the mains water where it comes onto site, where possible.
- Drain down any water systems, where possible.
- Consider weatherproofing critical structures or components. How weatherproof is it, and can anything be damaged if you have weather ingress?

ELECTRICAL SYSTEMS:

- Isolate any electrical systems where possible or relevant, while maintaining connectivity with security and fire protection systems.

STORAGE OF MATERIALS:

- Ensure any perishable or weather susceptible/flammable materials are stored in a watertight section of the building or in containers. Remove any high-value materials (for example, cables and IT equipment) from site where possible.

Remove all keys and immobilize heavy machinery and equipment.

During shutdown sites may be a target for arson. Follow good practices such as moving skips away from the site perimeter and buildings can help to reduce the risks. Removing rubbish and waste materials before shutdown can also help.

Please contact your Marsh JLT Specialty team if you have any questions regarding the coverage available under your policy or whether you need to take any precautionary action in the event of actual or proposed site closure.



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