

ADVISER

ZIKA — INSURANCE AND RISK MANAGEMENT CONSIDERATIONS FOR BUSINESSES

The World Health Organization (WHO) has declared the Zika virus outbreak a global public health emergency, thus prioritising resources to manage its rapid spread. The WHO does not, at the time of writing, recommend travel or trade restrictions. However, as evidenced by its placement among the top 10 risks in terms of impact for risk leaders and experts in the World Economic Forum's (WEF) Global Risks Report 2016, the spread of infectious diseases such as Zika is a key concern for organisations.



SHOULD YOU BE CONCERNED?

Although Zika appears to pose the most threat to pregnant women, where links to brain defects in children is strongly suspected, employers should encourage all employees working in or travelling to affected countries to be aware of the virus and its symptoms.

The ability for diseases to spread rapidly, jeopardise social and economic security, and endanger human health is amplified by rapid globalisation, increased trade and travel, rising urbanisation, and changes in the environment, behaviour, and society, according to the Global Risks Report.

Zika's implications for global businesses remain to be seen. A number of industries — including hospitality, real estate, sports, entertainment, and airlines — may face direct exposures if people begin cancelling travel plans or if employees become infected.

WHAT YOU CAN DO NOW

Along with working with insurance advisers to understand how insurance policies may apply, you can better prepare for infectious disease risk by:

1. Reviewing company policies on travel, hygiene, medical screening, and health support, including the provision of anti-virals, alcohol-based anti-bacterial sanitiser, masks, and items such as recommended insect repellents.
2. Providing personnel in high-risk areas with basic safety and awareness tips. For Zika, this includes using insect repellent, wearing long-sleeves and trousers, and staying in air conditioned places or those that use window and door screens.
3. Reviewing methods for providing ongoing information about the viral threat and the status of business operations to employees at work and at home.
4. Advising pregnant employees to seek expert medical advice before travelling.
5. Addressing the continuity requirements to keep vital operations going, including ways to minimise exposure to and the spread of illness in the workplace.
6. Reviewing the corporate structure necessary to manage the consequences of a potential outbreak, including implementing multiple business continuity and response plans, coping with a major increase in the number of employees working from home or unable to work, and addressing business strategy and operational impacts due to substantial changes to the marketplace and supply chain.
7. Take the time to review your risk management, business continuity, and other response and crisis management plans to ensure they are up to date, fit for purpose, and that they address the risks presented by current virus outbreaks and future occurrences.

BUSINESS TRAVEL INSURANCE

If you have employees who travel abroad for business, you should check the extent of cover provided by your insurer. One major insurer, with whom Marsh places a significant amount of business travel insurance, has confirmed it will (subject to normal policy terms and conditions) cover medical expenses related to Zika, and repatriation costs if deemed necessary. However, other insurers may take a different stance.

Costs associated with the cancellation of any booked trip to a Zika affected territory are not generally covered, as cancellation under these circumstances will be regarded as “disinclination to travel”. This is, however, unless the Foreign and Commonwealth Office’s current stance changes and it advises against all travel to these countries. However, the major insurer referenced above is taking a pragmatic approach and should a person who has booked a trip to an infected area be/discover they are pregnant or are currently undergoing IVF treatment, or if they are travelling to an area that is currently not but becomes infected prior to departure and after booking, the insurer will pay the cancellation claim. Other insurers may take a different stance and you should check your position.



Property Insurance

From a UK point of view, Zika is unlikely to impact property or business interruption insurance as it cannot be contracted here (as we do not have Zika-carrying mosquitos). However, organisations with property overseas may be affected. If the WHO or civil authorities impose travel restrictions, insurance recovery under property policies may be limited. Most civil authority coverage within business interruption property policies requires a covered or non-excluded peril and physical damage most likely to trigger coverage. However, some hospitality and gaming companies or others in related industries have a version of this coverage for “loss of attraction” with notifiable disease as one of the triggers.

Employers Liability Insurance

There are no specific exclusions or conditions relating to any particular type of disease in compulsory UK employers liability (EL) policies, which provide cover up to GBP5,000,000 per occurrence. Therefore, where the insured is legally liable for disease caused to their employees during the policy period, this should be covered, subject otherwise to the terms of the policy.

For example, most EL policies have an extension of cover for temporary business trips abroad; however, this should be checked to ensure the wording of the extension does not exclude certain types of employees or work. Such restrictions are permitted because the requirements for compulsory cover do not apply outside Great Britain, Northern Ireland, the Channel Islands, or the Isle of Man.

Public and Products Liability Insurance

There are currently no specific exclusions or conditions in UK public and products liability (PPL) policies relating to Zika, so where the insured is legally liable for the disease caused to third parties from their business activities and where happening during the policy period, this should be covered, subject otherwise to the terms and conditions of the policy.

This is likely to include, for example, a condition requiring the insured to take “reasonable precautions” to prevent claims under the policy. What are deemed “reasonable precautions” will depend on the circumstances. For UK multinational policies, which extend to include an element of “excess and/or residual” cover for injury to the insured’s employees based permanently outside the UK, some such extensions will specifically exclude any disease claims. All other PPL policy terms will also apply.

Legal Liability

The question of whether a legal liability may exist, which is required in order to trigger coverage under an EL or PPL policy, will also be dependent on the facts of each case – but broadly, will be dependent upon whether the insured is considered to have breached its duty of care (if any) owed to the injured party. Consequently, documented evidence of the insured’s health and safety policies, which address the relevant issues and are implemented in practice, will be important in the defence of any claim. Such documentation could also influence whether insurers respond to provide that defence, which is at their discretion and separate from the indemnity they provide for compensation or damages that may be awarded to a claimant in the event of legal liability being proven.

The information provided in this document is general guidance. Please contact your usual Marsh representative to discuss your specific insurance policy wordings and cover, or email national.enquiries@marsh.com



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