



News release

Insurance Council
of Australia

Tuesday, 24 August 2021

Business interruption test case update

The Insurance Council of Australia notes the Federal Court of Australia has today ordered the second business interruption test case hearing will commence one week later than previously scheduled.

The order to vacate the 30 August 2021 hearing and reschedule to 6 September 2021 – 15 September 2021 was made in light of the difficulties that some policyholders have had in obtaining verified government data and expert evidence concerning the location and prevalence of COVID-19 outbreaks.

Insurers look forward to the second test case taking place as soon as possible and have worked hard to ensure readiness for the hearing.

It is not anticipated that this postponement will impact on the timeframe for any appeal, which has been scheduled to be heard by the Full Court of the Federal Court in November 2021.

The insurance industry's intention throughout both test cases has been to maximise the certainty to be provided on business interruption policy matters for the benefit of the industry and policyholders alike.

At today's hearing the court agreed with the proposal of the insurers and policyholders that the 6 September 2021 hearing proceed on the basis of the available evidence. However, the policyholders participating in the second test case will have the ability to present certain additional factual and expert evidence relevant to their claims if it later becomes available.

The second test case consists of nine small business claims from a range of business sectors and locations, lodged with the Australian Financial Complaints Authority as part of its dispute resolution process.

The court's determinations in this and the first test case will provide clarity and guidance for all insurers and policyholders, not just those involved in the test cases.

For more information please visit insurancecouncil.com.au/bi-test-cases.

Comment attributable to Andrew Hall, CEO Insurance Council of Australia:

Insurers acknowledge that this extra week gives policy holders more time to obtain verified State Government data and expert evidence for their cases while allowing the hearing to proceed on the basis of the available evidence.

We thank policyholders involved in this second test case for their time and patience in this important test case process.

Insurance Council members are committed to applying the courts' rulings in both this and the first test case in an efficient, transparent, and consistent way when determining business interruption claims.

We encourage all business interruption policyholders who believe they may have a claim and have not already done so, to lodge a claim and gather and keep all necessary documents in support of it.