



News release

Insurance Council
of Australia

Monday, 21 February 2022

Business Interruption Federal Court appeal judgment

The Insurance Council of Australia (ICA) acknowledges today's judgment of the Full Court of the Federal Court of Australia in the appeals in the second business interruption test case. Appeals were filed in respect of five of the ten test case matters.

The ruling substantially upheld the earlier Federal Court judgment delivered in October 2021. The Full Court also upheld a ruling that insurers could not rely on a section of Victorian property legislation to exclude liability.

The judgment provides further clarity on key issues in respect of the wordings in business interruption policies such as disease definition, COVID-19 outbreak proximity, the impact of government mandates and other policy wording matters.

The parties to the Full Court proceedings have a period of 28 days in which they may apply for special leave to appeal to the High Court.

Insurance Council members, including those not directly involved in the court proceedings, have committed to applying the principles of the courts' final ruling consistently and efficiently to all business interruption claims.

Claims will ultimately be determined based on the applicable principles of the final judgment in this test case, and that of the first test case, as well as the wording of the particular policy of the policyholder.

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

We welcome today's Full Court judgment which marks another important step in seeking clarity for business policyholders and the general insurance sector.

These matters are not clear cut and we acknowledge that this has been a long but necessary process that will ultimately provide important guidance on how business interruption policy wordings are to be interpreted and applied.

We hope that the matter can be brought to a close as soon as possible.