



# News release

Insurance Council  
of Australia

Thursday, 04 August 2022

## High Court to hear arguments in second BI test case

The Insurance Council of Australia (ICA) today acknowledged the High Court's request to hear oral arguments on the applications for special leave to appeal the Full Court of the Federal Court of Australia's recent judgment on the interpretation of policy wordings in business interruption policies in the context of COVID-19.

The High Court today indicated that the oral hearing will not be listed before October 2022 at the earliest.

The Full Court of the Federal Court delivered its judgment on 21 February 2022 where it substantially upheld the arguments of insurers in four of the five matters in the test case which were appealed. The Full Court found that in those four matters the insurers were not liable to indemnify the policyholders.

Applications for special leave to appeal to the High Court were filed by two policyholders in March 2022, and an application was also filed by the insurer IAG in respect of the issue of whether JobKeeper payments should be taken into account when calculating any insurance payment.

The industry will meet the costs of the policyholders in these special leave applications and any resulting appeals as agreed as part of the decision to obtain an outcome through test cases.

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

The Insurance Council and insurers acknowledge the High Court's request to hear oral arguments on the applications for special leave to appeal parts of the judgment of the Full Court of the Federal Court of Australia.

We recognise this has been a particularly difficult time for many small businesses and we sought the courts' determinations to establish the principles necessary to minimise disputes.