



# COVID-19 Weekly Report

30 March – 5 April 2020

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## 1. Foreword

As the full economic brunt of the COVID-19 pandemic begins to bite, the implementation and refinement of government relief programmes continue apace. Most notably, the \$2 trillion stimulus package brought by the US CARES ACT will provide \$349 billion in loans and \$17 billion in subsidies to small businesses, as well as loan facilities and other assistance for medium and large companies worth \$454 billion. After a week in which US jobless claims skyrocketed to 6.6 million, it is hoped that such programmes will incentivise businesses to rehire many of these laid-off workers.

Meanwhile, the UK Treasury has extended emergency loan schemes to medium-sized companies after similar lifelines were thrown to small businesses and investment-grade corporations last week; all in all, it appears the UK government is actively listening to stakeholders across the economy and attempting to adjust its policies to reflect the fast-changing circumstances and extend the safety net as widely as possible.

Company directors face difficult decisions in these unprecedented times; accounting for the wider context in which these decisions are made will be paramount to their businesses' survival. Those with greater liquidity and more amenable to conducting business digitally should be acutely aware of the long-term effects of any large-scale efficiency drives. The reputational risks are greater than in the 2008 global financial crisis, given the more widespread exposure via social media; where layoffs are unavoidable, timing is crucial – too early and companies risk missing the full benefit of government programmes before they are fully operational; too late and such measures will have little effect.

The next section summarises some of the most pressing legal issues faced by our in-house counsel audience over the past week.

We endeavour to develop and refine the content of these weekly reports over time to ensure utmost relevance and usefulness to readers' daily practice. As such, we invite you to send any feedback on how the scope of future editions can be improved to [admin@internationallawoffice.com](mailto:admin@internationallawoffice.com).

## 2. Key legal issues this week

1

**CORPORATE GOVERNANCE AND INSOLVENCY RISK:** The pandemic is bringing directors' fiduciary duties to the fore, with many reviewing the relevant laws and best practice in relation to managing insolvency risks. Regular board meetings to monitor business performance in real time are crucial, as is clear and consistent recordkeeping; the emphasis is on informed and reasoned decision making.

2

**REAL ESTATE:** Amid a largely shuttered retail and leisure sector, attention is turning to the repercussions for commercial leases. Rent concessions by landlords are ultimately a commercial decision, but the legal implications should be considered – namely, any deferrals or waivers should be precisely framed and well documented. Note that taking remedial action against defaulting tenants may be impractical or even unlawful in the current climate.

3

**LITIGATION:** Many jurisdictions are making the necessary legislative changes and producing regulatory guidance to enable court proceedings by video link. It is hoped that this will facilitate the continued administration of justice, at least in regard to civil proceedings.

## 3. Expert commentary

Over the past seven days the [International Law Office's](#) (ILO's) panel of expert international legal commentators have written about recent legislative and regulatory guidance. Produced in partnership with a team of specialised editors, ILO content provides readers with easy-to-digest insight into how COVID-19 is affecting a specific work area and jurisdiction from a single thought leader in each jurisdiction.

If you would like to submit a question to the ILO panel, please email [admin@internationallawoffice.com](mailto:admin@internationallawoffice.com).

### 3.1. Asia

#### 3.1.1. Litigation



#### [Litigation in the time of coronavirus \(brief update\)](#)

*Hong Kong - RPC*

The 'general adjourned period' (GAP) during which the courts in Hong Kong have been closed, save for urgent and essential court business, has been extended to 13 April 2020. The GAP is a consequence of the extraordinary measures adopted in Hong Kong to combat the coronavirus public health emergency.

**Authors:** David Smyth, Antony Sassi

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### 3.2. Europe

#### 3.2.1. Banking



#### [Liquidity aid for businesses in times of coronavirus: emergency aid through guaranteed COVID-19 bridging loans](#)

*Switzerland - Meyerlustenberger Lachenal*

The COVID-19 pandemic and the measures against it taken by states all over the world will have serious consequences for the Swiss economy. To cushion the economic consequences of the spread of the coronavirus, the Federal Council recently approved a comprehensive package of measures worth Sfr32 billion. A key component of this package is government-backed loans to provide liquidity for businesses.

**Authors:** Alexander Vogel, Samuel Ljubicic, Remo Müller

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### 3.2.2. Competition & Antitrust



#### [DCCA enforcement: merger control suspended](#)

*Denmark - Gorrissen Federspiel*

As the COVID-19 pandemic spreads across Denmark, merger control has come to a temporary standstill and significant parts of the country's public administration have already been shut down for three weeks. However, the Danish competition authorities are adamant that competition law remains in force and will prioritise enforcement against companies that take advantage of the current situation through illegal behaviour, such as coordinating prices or limiting the production of certain goods.

**Authors:** Martin André Dittmer, Thomas Skou

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### 3.2.3. Employment & Benefits



#### [Coronavirus – enhanced right to receive and be reimbursed for sickness benefits](#)

*Denmark - Norrbom Vinding*

A bill amending the Sickness Benefits Act has recently been enacted to mitigate the economic consequences of the coronavirus (COVID-19) pandemic for employers and self-employed persons. The bill extends the scope of employers' right to reimbursement of sickness benefits and self-employed persons' right to receive sickness benefits, provided that the sickness absence is caused by COVID-19.

**Author:** Elsebeth Aaes-Jørgensen

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#### [Temporary COVID-19 Wage Subsidy Scheme introduced](#)

*Ireland - Lewis Silkin*

The government has introduced the Temporary COVID-19 Wage Subsidy Scheme to incentivise employers to retain employees on the payroll where possible (replacing the emergency COVID-19 Employer Refund Scheme). This article outlines the implications for employers.

**Author:** Declan Groarke

[Read more](#)



### [Special paid leave for mandatory quarantine in Malta in view of COVID-19 pandemic](#)

Malta - *Fenech & Fenech Advocates*

In response to the ongoing COVID-19 pandemic, the superintendent of public health has published the Minimum Special Leave Entitlements (Amendment) Regulations 2020. These regulations amend the Minimum Special Leave Entitlement Regulations, introducing a new paid quarantine leave for all employees, payable by their employer.

**Authors:** Paul Gonzi, Mattea Pullicino

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### [Anti-crisis shield in response to COVID-19: review of proposed changes](#)

Poland - *Sołtysiński Kawecki & Szlęzak*

The president and prime minister have announced a ZŁ212 billion package of measures – the so-called 'anti-crisis shield' – to protect businesses and employees against the adverse economic effects of the coronavirus pandemic. This article provides an overview of the proposed changes to labour law presented as part of the initial version of the anti-crisis shield.

**Author:** Agnieszka Fedor

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#### 3.2.4. Real Estate



### [COVID-19 measures may entitle tenants to rent reductions](#)

Austria - *Graf & Pitkowitz Rechtsanwälte GmbH*

In an effort to reduce the spread of COVID-19, the government has ordered all shops and service providers, except those providing certain vital services, to close to customers from 17 March 2020 until 13 April 2020. The closure of shops may entitle tenants to reduced rent and ancillary costs. However, it does not entitle tenants to terminate their lease for cause. This article sets out guidance for affected tenants and landlords.

**Author:** Martin Foerster

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### 3.2.5. Shipping & Transport



#### [Effect of COVID-19 on Maltese shipping industry](#)

*Malta - Fenech & Fenech Advocates*

Faced with the threat of the COVID-19 pandemic, many EU states are increasingly adopting stringent measures to ensure that the spread of COVID-19 is, to the extent possible, contained. Malta is no exception in this regard, with most sectors having been affected to some extent. The local shipping industry has also been hit with several restrictions in recent weeks.

**Author:** Adrian Attard

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### 3.3. Latin America & the Caribbean

#### 3.3.1. Aviation



#### [Aviation industry trends – The Bahamas](#)

*Bahamas - Klonaris & Co*

Continued work on the creation of an aircraft registry, the ratification of the Cape Town Convention and preparation for the next International Civil Aviation Organisation audit scheduled for Spring 2021 are the main trends affecting the Bahamian aviation industry in 2020. This video discuss these developments as well as the potential impact of COVID-19.

**Author:** Llewellyn V Boyer-Cartwright

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#### 3.3.2. Shipping & Transport



#### [Transport restrictions introduced due to coronavirus outbreak](#)

*Argentina - Venetucci & Asociados*

Further to a National Cabinet meeting on 16 March 2020, a new regulation was introduced which prohibits entry into Argentina by sea, air or land for 15 calendar days by non-resident foreign nationals; this timeframe may be extended or lifted by the government as deemed appropriate. Given the uncertainty about the duration of these measures, it remains to be seen what effect they will have on the maritime industry.

**Author:** Francisco Venetucci

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### [COVID-19 crisis and changes to cargo delivery procedures](#)

*Chile - JJR Abogados*

In the context of the current COVID-19 crisis, Customs recently issued Resolution 1179/20, which implements transitory modes for the treatment of various customs procedures and the ways of presenting documents associated therewith to facilitate foreign trade transactions. Among these transitory measures, Customs has authorised electronic exchanges and amendments to bills of lading. However, customs agents must now obtain the original bill of lading from its issuer and keep it in its importation file.

**Author:** Ricardo Rozas

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## 3.4. North America

### 3.4.1. Competition & Antitrust



### [Collaboration and catastrophe: antitrust laws in face of COVID-19](#)

*USA - Norton Rose Fulbright LLP*

While antitrust and consumer protection laws provide flexibility for firms to respond to changing market conditions, such as those created by the COVID-19 pandemic, it is important to remember that certain conduct will remain prohibited by antitrust and consumer protection laws no matter the circumstances.

**Authors:** Gerald A Stein, Eliot Turner, Molly Billings, M Miles Robinson

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### 3.4.2. Employment & Benefits



### [Workforce planning during COVID-19 pandemic: options for employers](#)

*Canada - Fasken*

The COVID-19 pandemic has caused disruptions and slowdowns in almost all industries. The situation is fluid and government, business and social responses have and must be dynamic. This article discusses the options available to employers outside Quebec to manage the unexpected downturns and, if necessary, reduce their labour force. All of the options may create risks, including circumstances where an employee could allege constructive dismissal and claim termination entitlements.

**Author:** Marc Rodrigue

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### 3.4.3. International Trade



#### [Importation of personal protective equipment for COVID-19 treatment](#) *USA - Arent Fox LLP*

Due to the COVID-19 pandemic, medical items such as masks, ventilators and gowns are difficult to find. With people looking overseas to source these items, this article provides some basic guidance for importing them in a way which satisfies US import requirements and facilitates quick processing through clearance. Many of these items are regulated by the Food and Drug Administration as medical devices and are also subject to US Customs and Border Protection regulations.

**Authors:** David Salkeld, Deborah M. Shelton, Robert E. Shervette, Russell A Semmel

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#### [COVID-19 and Section 301 tariffs: USTR excludes some products and solicits requests to exclude more](#) *USA - Arent Fox LLP*

The US Trade Representative recently requested comments on the removal of Section 301 tariffs from Chinese medical care, including those that have previously been denied an exclusion, which are needed to respond to the COVID-19 outbreak. As manufacturers of medical care products increase production and unrelated supply chains shift to aid the global fight against COVID-19, parties should consider whether Section 301 tariffs are impeding their ability to contribute to the cause.

**Authors:** David R Hamill, Teresa Polino, Russell A Semmel

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### 3.5. United Kingdom

#### 3.5.1. Employment & Benefits



#### [IR35 reforms postponed due to coronavirus](#) *United Kingdom - Lewis Silkin*

The government has announced that the planned reforms to IR35 will now take effect on 6 April 2021 instead of 6 April 2020 as previously planned. The postponement will come as an enormous relief to businesses that were struggling to prepare for this significant change to employment tax while dealing with the issues introduced by the fast-changing coronavirus situation. However, this is clearly a deferral of the reforms rather than an abandonment.

**Author:** Lucy Lewis

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### 3.5.2. Franchising



#### **COVID-19: how franchise and distribution networks can respond**

*United Kingdom - Fieldfisher LLP*

There is no one-size-fits-all plan for how businesses should respond to the COVID-19 crisis. However, this article provides some guidance for businesses which are primarily consumer focused and use franchise and distribution networks to sell their products and services in order to help them to respond to the challenges ahead and hopefully even emerge on a stronger footing than before.

**Authors:** Gordon Drakes, David Bond

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### 3.5.3. Litigation



#### **COVID-19 and the courts: a headlong journey into remoteness**

*United Kingdom - RPC*

The English civil justice system has shown itself to be capable of rapid change as it adapts to the new reality caused by COVID-19. The clarion call from the English courts is that they are open for business, driven by the need to maintain the access to justice which is vital for the functioning of civil society. However, this will not be an easy task and it would be naive to think that there will not be teething problems during the move into a new era of conducting litigation in new ways.

**Author:** Matthew Evans

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ILO delivers expert legal commentary, in the form of concise weekly newsletter emails, to senior corporate counsel and law firm partners worldwide. Free to receive, the ILO newsletters have been providing tailored, quality-assured updates on global legal developments to more than 72,000 registered subscribers since 1998.

ILO content is generated in collaboration with over 500 of the world's leading experts and covers more than 100 jurisdictions.

Produced in partnership with a team of specialised editors, the ILO newsletters provide editorially-driven, high-quality legal news in the form of concise, regular updates from a single leader in their field.

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