

Correspondence	Chambers Ireland asks/content of correspondence	Details of response received
<p>Letter to Taoiseach re COVID-19 and support for business (13 March)</p>	<p>Called for:</p> <ol style="list-style-type: none"> (1). Deferral of tax payment (VAT, PAYE & PSRI). (2). Prompt payment obligations. (3). Coordinated communications plan. (4). All State regulators and enforcement agencies to be asked to take a pragmatic approach to the enforcement of regulations at this extraordinary time. 	<p>"The recent Chambers Ireland COVID-19 Business impact Survey highlighted the extraordinary difficulties companies are currently facing. You are aware from our recent engagements at the Enterprise Forum, that I have been working with my colleagues across Government to put in place an effective portfolio of supports to assist firms in responding to the immediate and critical financial pressures which the pandemic has created for them. Last week I announced a major expansion of supports for all businesses impacted by covid-19. The package is now worth €1bn in liquidity measures including a new €180m Sustaining Enterprise Fund for firms in the manufacturing and international services sectors. The supports also include an additional €30m for microenterprises through the 31 Local Enterprise Offices comprising additional funding for Microfinance Ireland and Trading Online Grants for those businesses that are in a position to do business online while complying with the public health guidelines. This package is a significant step-up in the supports available for all businesses in all sectors at this very difficult time. The measures have been developed to meet the varying needs of Irish enterprise and they are very specifically targeted by size, sector and need. With this in mind, I wanted to highlight to you that DBEI's website provides a useful portal to access details on the range of business supports available."</p> <p>(Response received on 15 April)</p>
<p>Letter to Taoiseach re COVID-19 Insurance Cover for business (20 March)</p>	<p>Request for consistency and clarity on whether insurers will be providing 'Business Interruption' cover to indemnify them for losses. Chambers Ireland asked Government to engage with the insurance industry to resolve this matter and problems arising from different interpretations of insurance cover so that businesses across Ireland are clearly informed of the whether they are covered or not.</p>	

**Letter to Minister
Paschal Donohoe re
COVID-19 Insurance
Cover for business
(20 March)**

Request for consistency and clarity on whether insurers will be providing 'Business Interruption' cover to indemnify them for losses. Chambers Ireland asked Government to engage with the insurance industry to resolve this matter and problems arising from different interpretations of insurance cover so that businesses across Ireland are clearly informed of the whether they are covered or not.

It should be noted that the Minister has no powers in relation to how insurance companies set the terms and conditions for the policies they write, or on how they price the risk underlying those policies. Therefore, the Minister cannot direct or require that insurers cover claims resulting from infectious diseases such as COVID-19. Whether a business can make a claim in relation to loss of earnings because of closure due to COVID-19 will depend on the specifics of their policy. While business interruption is generally a feature of standard business insurance policies, it is understood that many of those policies do not include cover specifically for infectious diseases, as that this would have been an optional extra. If this is the case, then no claim is possible as the risk has not been underwritten. In the case where infectious diseases are covered, there are other considerations which insurers will take account of. There appears to be three broad approaches as to how this risk is underwritten:

(i). As a notifiable disease with a general description (with perhaps some specified exclusions) on the premises.

(ii). As a notifiable disease with a general description (with perhaps some specified exclusions) on the premises and within a specified radius of the premises.

(iii). A list of specific infectious diseases are outlined in the policy document.

As COVID-19 is not in any existing policies, then businesses are not covered for an outbreak in their premises with this type of policy. As a general rule, the Minister believes that insurers should not attempt to reject claims on the basis of interpreting policies to their own advantage. Insurers should engage with those businesses honestly, fairly and professionally to honour those elements of the policies covered, in line with the Central Bank's Consumer Protection Code. In addition, the Minister believes that where a claim can be made because a business has closed, as a result of a Government direction due to contagious or infectious disease, that the recent Government advice to close a business in the context of COVID-19 should be treated as a direction. That said however, there may be other terms and conditions in the policy that need to be taken into account and these may vary from business to business. For this reason, it is important for businesses to engage directly with their insurer or broker as regards whether they actually have the appropriate level of cover.

On foot of the above, the Minister wrote to Insurance Ireland setting out his views and concerns on the handling of business interruption cover by insurers. In addition, the Minister set out in this letter his belief that there are other positive measures that insurers can take to alleviate pressure on business and personal policyholders, including forbearance for some personal and corporate customers. In that regard, he requested that insurers implement these measures wholeheartedly in order to provide

certainty for businesses and individual consumers at this time. the Minister also notes that the Central Bank wrote to the Chairs and CEOs of both life and general insurance firms on 27 March and met the non-life companies on 30 March. The key messages that the Bank conveyed are as follows:

- Insurers must put forward consumer-focused solutions on policy payment breaks, rebates and claims.
- While most insurance policies are clear, if there is a doubt about the meaning of a term, the interpretation most favourable to the consumer should prevail.
- The Central Bank expects the CEOs of Irish authorised firms to take responsibility for the oversight of how their firm is managing determinations of whether claims are covered or not in the context of COVID-19.

In relation to your request for support for businesses, the Minister would draw to your attention the measures that the Government has made available to try and alleviate the pressure on businesses as a result of the COVID-19 crisis. In this regard, the Minister would ask that you assist impacted businesses in your network to make contact with the relevant authorities in relation to these measures. (Response received on 16 April).

<p>Letter to Minister Regina Doherty re the application of statutory redundancy and the employer refund scheme (23 March)</p>	<p>Proposed that (a) the right of employees to claim redundancy if on lay-off for 4 consecutive weeks should be suspended during this crisis and, instead, employees should be able to call on government welfare supports for the duration, or(b) alternatively, employers should be able to claim a full 100% rebate of any redundancy payments made to employees, bearing in mind that the length of time it takes to secure this rebate is vital for companies being able to keep afloat.</p>	<p>Response received from Siobhan Lawlor, Principal in Employer Relations, DBEI: “You will be happy to know that we are examining measures that address your members concerns in relation to Redundancy & Insolvency.” (Response received on 23 March)</p>
<p>Letter to Minister Paschal Donohoe re Emergency measures in the Public Interest Bill (COVID-19) 2020 (26 March)</p>	<p>Raised concerns regarding Section 26 provisions of the Emergency Measures in the Public Interest (COVID-19) Bill 2020, specifically: (a). The lack of clarity in the Revenue Commissioner's Guidance. (b). The lack of clarity around 'affected businesses' and being 'unable to pay'. (c). Lack of clarity around 'reduction in turnover... or in customer orders being received'. (d). Cross-border Employees.</p>	
<p>Letter to Minister Heather Humphreys re Emergency measures in the Public Interest Bill (COVID-19) 2020 (26 March)</p>	<p>Raised concerns regarding Section 26 provisions of the Emergency Measures in the Public Interest (COVID-19) Bill 2020, specifically: (a). The lack of clarity in the Revenue Commissioner's Guidance. (b). The lack of clarity around 'affected businesses' and being 'unable to pay'. (c). Lack of clarity around 'reduction in turnover... or in customer orders being received'. (d). Cross-border Employees.</p>	

**Letter to DBEI re ICC
Letter on G20 Action
(28 March)**

A roadmap for G20 countries to use trade policy to fight COVID-19 and rebuild for the future: (1). Use trade policy to speed the health response to COVID-19. (2). Keep trade flowing to restore growth and safeguard jobs. (3). COVID-19 must not inhibit long-term reform of the trading system.

Response received from John Hughes (Director of Trade Policy DBEI): "The meeting was the start of a G20 process aimed at advancing our approach towards coordinated measures and responses to the implications of the COVID-19 pandemic from a trade and investment perspective. We would summarise the EU priorities to help tackle the immediate crisis as follows:

(1). Building on the tariff relief introduced by several G20 members, eliminate all tariffs on COVID- 19 related products.

(2). Remove, in line with WTO rules, all restrictive measures on imports introduced before the pandemic, notably on the tariff side, and a moratorium on new unilateral tariffs.

(3). Ensure that any necessary export restrictions on critical medical supplies are not only targeted, proportionate, transparent, and time-limited but are also implemented upholding the principle of international solidarity, considering the evolving needs of other countries for emergency supplies and humanitarian assistance.

(4). Refrain from introducing export restrictions or other trade distortive measures on the agri-food sector, where there simply is not a situation of global supply shortage at this juncture.

(5). Encourage all manufacturers to increase capacity for producing equipment to fight COVID19, by making standards for medical supplies freely available to any interested company

(6). Ensure that "green lanes" are open for the transport and customs controls of essential goods

(7). Monitor closely the conditions for the financing of trade, given deteriorating financial and credit conditions

The EU also stressed the importance of a "level playing field" for trade and investment, WTO and its reform, international rules on digital trade and the removal of unjustified barriers for the supply of transport services. Ministers have mandated the G20 "Trade and Investment Working Group" to identify additional proposed actions and the G20 Presidency has envisaged that Trade Ministers may meet again in 4 to 6 weeks' time.

(Response received on 1 April)

**Letter to Niall Cody,
Chairman of the
Revenue
Commissioners re
the Temporary Wage
Subsidy Scheme (1
April)**

Request that Revenue publish the final Guidelines on the operation of the Temporary Wage Subsidy Scheme which will consolidate and clarify all previous iterations.

(1). When will final Revenue guidance on the Temporary Wage Subsidy Scheme be issued? Revenue have sought to publish relevant guidelines in respect of the Temporary Wage Subsidy scheme to clarify queries for employers. Revenue are responding to queries regarding the scheme on an ongoing basis and regularly updates the guidance where necessary in order to assist employers with the implementation of the scheme. It is expected that Revenue guidance will continue to be updated in the short term. You will note from the updated guidance, that changes to previous iterations of the guidance document have been highlighted.

(2). There are still serious misgivings regarding the Wage Subsidy Scheme and many employers require further clarity, particularly in relation to ability to pay clause. To qualify for the scheme, a business must be experiencing a significant negative economic disruption due to the Covid-19 pandemic. There were concerns expressed in some quarters that the declaration required of employers seeking to participate in the scheme was a declaration of insolvency by the employer. Revenue has made clear in its published guidance that this is not the case. The declaration is simply a declaration which states that, based on reasonable projections, there will be, as a result of disruption to the business caused or to be caused by the Covid-19 pandemic, a decline of at least 25% in the future turnover of, or customer orders for, the business for the duration of the pandemic and that, as a result, the employer cannot pay normal wages and outgoings fully but nonetheless wants to retain its employees on the payroll. As indicated in our guidance, Revenue does not consider that any employer will require professional advice or assistance in being able to prove to the satisfaction of Revenue that these criteria are met. Should Revenue seek to validate employer eligibility for the scheme, it will adopt a reasonable, fair and pragmatic approach in considering whether the criteria have been met. In operating the scheme, Revenue's priority is to ensure that all employers experiencing significant negative economic disruption from COVID-19 can register for and start to receive payment as quickly as possible.

(3). Is the employer expected to top up the remaining 30%? The scheme is predicated on the employer wanting to keep the employees on the payroll and to retain them until business picks up. The employer is expected to make best efforts to maintain the employees' net income as close as possible to normal net income for the duration of the scheme. There is no minimum amount that the employer must pay in order to be eligible for the scheme, but for operational purposes the employer will need to enter at least €0.01 in Gross Pay of the employees when running its payroll.

(4). Is it possible to put employees on reduced hours and still claim the 70% subsidy? In this case, can the employee still claim for short time support? Where an employee is on reduced hours, the employer can still avail of the temporary wage subsidy (TWS) for that employee and the employer must pay the subsidy amount to the employee in full. Alternatively, an employee who has been temporarily placed on a shorter working week may qualify for Short Time Work Support from the Department of Employment Affairs and Social Protection (DEASP). However, if an employer is eligible for the TWS scheme and is paying an employee under that scheme, the employee concerned is not eligible to make a claim to the DEASP in respect of the days he or she is not working.

(5). We will be laying staff off but may need emergency call out staff periodically through this period, how would this work. Where the employer meets the conditions for the scheme but may need the eligible employees to work periodically that will not impact on their payments. There are no requirements on the work, if any, that the employer assigns to employees. However, employers must not operate this scheme for any employee who is making a claim for duplicate support (e.g. Pandemic Unemployment Payment) from the DEASP. Where an employee previously laid off has been re-hired, the employee will qualify for the temporary wage subsidy scheme if his or her DEASP claim is ceased.

(6). There will be tax owed by employees at a later stage. Can Revenue provide additional clarity as to when this will occur and how it will be managed and when communicated. The temporary wage subsidy payments are liable to income tax and universal social charge (USC); however, the subsidy is not taxable in real-time through the PAYE system during the period of the subsidy scheme. Instead, the employee will be liable for the tax and USC on the subsidy amount paid to them by their employer by way of review at the end of the year. When an end of the year review takes place, it may be the case that an employee's unused tax credits will cover any further liability that may arise. Where this is not the case, and should an income tax and USC liability arise, it is normal Revenue practice to collect any arrears owing in manageable amounts by reducing an individual's tax credits for a future year(s) in order to minimise any hardship. Additionally, if an individual has any additional tax credits to claim, for example health expenses, this will also reduce any tax that may be owing. (Response received on 9 April)

**Letter to Maureen
O'Sullivan, Registrar
of the CRO on
COVID-19 Measures
(6 April)**

Asked for an extension of the filing deadlines for all documents due to be filed the CRO to allow appropriate time after the end of restrictions to facilitate the holding of all necessary meetings and notice periods and subsequent filing of documents.

In relation to the timeframe of the 30th of June, as you noted in your letter, I indicated at the time that the decision was made that this matter would be kept under review and I intend to make a further announcement in that regard before the end of May. Turning to the specific issues raised in your letter, as you have pointed out the Companies Act 2014 contains an enabling provision that allows companies to hold meetings (including meetings of directors as provided for in section 161(6) by electronic means. I believe that a number of companies may have chosen to disapply this provision in their constitutions but that is a matter for them and not something in which the Registrar has a role. On the practical difficulties in relation to the signature of documents, the provision of additional time to complete the filing of annual returns allows some breathing space for companies to arrange for the signature of documents such as those you mention. I accept that some companies may have difficulties arranging for the timely signature of documents although I note that high numbers of Annual Returns were filed last week when they were due for companies with a financial year end of 30th of June and the level of post being received in the office is also substantial. It is too early to say how many of these companies were able to capture the B1 form online but will not be able to submit their signature pages or upload financial statements. However be assured that any such difficulties will be taken into consideration in the review of the 30th of June date. CRO cannot give any legal advice on the issue of holding general meetings by electronic means but if any company considers that there is any doubt as to whether section 176(4) provides the same ability to hold general meetings by electronic means as is provided for by section 161(6) they should seek legal advice on the matter. It should be noted that the Companies Act removes the requirement, in certain circumstances, for the AGM to be held at all. I should also point out that CRO has greatly extended the ability of companies to continue to comply with the requirements of the Companies Act 2014 for example by allowing receipt by email of scanned copies of SAP declarations and Independent Person's reports. I have already indicated that the issue of an extension to the 30th of June date is being kept under review as the situation evolves. In the meantime, if any specific issue of concern to your members arises please do not hesitate to get in contact with me.
(Response received on 7 May)

<p>Letter to Minister Humphreys re threat of reckless trading under the Companies Act 2014 (6 April)</p>	<p>Raised concern that in the event of a company being forced to wind up, it is within the power of a Liquidator, Examiner, Receiver or Creditor to apply to The Courts for the offence of fraudulent or reckless trading, independent of any view of the Revenue Commissioners. Set out minor amendments to the Companies Act 2014, proposed by the Company Law Review Group and as set out in the recommendations schedule, would address this risk and we request that you expedite these or similar amendments urgently.</p>	<p>"DBEI is considering, with input from the Company Law Review Group, how the Companies Act 2014 can facilitate companies as they respond to the challenges of the crisis, while also maintaining the appropriate corporate governance safeguards. Any amendments provisions in relation to reckless trading must be examined carefully from both a legal and policy perspective given the impact on a variety of stakeholders including creditors, other companies, employees and the Revenue Commissioners. While it is appreciated that some companies and their directors may have concerns in respect of reckless trading during these challenging times, it should be noted that any consideration of reckless trading must look at the totality of the relevant factors involved". (Response received on 7 April)</p>
<p>Letter to Minister Heather Humphreys re the need for prompt action to safeguard global trade in goods and services and maintaining maintain global supply chains in response to the global health pandemic (15 April)</p>	<p>Forwarded the ECH letter to Minister Humphreys ahead of the informal meeting of EU Trade Ministers with recommendations to increase supply chain security.</p>	
<p>Letter to Taoiseach re the reopening of the Irish Economy (24 April)</p>	<p>Called on government to take into consideration the following recommendations on how the Irish exit strategy could be framed over the coming months and weeks: (a). Social distancing in urban spaces. (b) a taskforce to coordinate this effort.</p>	

<p>Letter to Minister Donohoe on reforming the TWSS and other employment supports (14 May)</p>	<p>Called for continuation of the TWSS beyond the initial 12 weeks; reform of the scheme so that those on maternity/parental leave pre-COVID-19 are no longer penalised' clarity on the issue of liability for income tax; review of the TWSS so that employers can hold on to the staff that they have already hired and trained and/or replace or hire additional staff as their businesses require; self-declaration system for part-time employees so that employers are not financially penalised for increasing an employee's hours; supports for self-employed and over 66's.</p>	<p>Acknowledgement received</p>
<p>Letter to Minister Murphy re waiver for commercial rates and implementation of Restart Fund (15 May)</p>	<p>Called on the Ministers Department to extend the initial 3-month rates waiver beyond this, with the scope to be extended to a full year for impacted businesses as appropriate. Suggested that additional criteria of a 25% reduction in turnover should be the test for eligibility of the waiver. Lastly, called for clarification on how the Restart Fund will be implemented to ensure consistency across all Local Authorities.</p>	
<p>Letter to Minister Humphreys re Financial Supports for Business (15 May)</p>	<p>Highlighted first two set of survey results and raised the concern that debt-raised solutions will not be the solution to the liquidity and cashflow crisis. Underlined the need for an expansion of the financial supports, with a move towards grants rather than loans.</p>	

<p>Letter to Minister Doherty for clarification on Emergency Powers and impact on deferral of Redundancy Entitlements (25 May)</p>	<p>Requested that Government extend the emergency period until Sunday, 30 August, that being the date that the final phase of the Government’s Roadmap is due to conclude. It is submitted that this is a necessary measure to provide certainty to employers and to employees. As it stands, employees may claim redundancy monies from their employers from the end of May. This will have a significant adverse impact on employers throughout the country.</p>	
<p>Open Letter calling for National Taskforce for Town Centres (2 June)</p>	<p>Called for the establishment of a National Taskforce for Town Centres, fully resourced by the Department of the Taoiseach, to revive our town centres in a new post-pandemic world. The overarching objective must be to enhance liveability, increase housing supply and support sustainable, active transport.</p>	<p>Sent to the Taoiseach, all party leaders, Martin Fraser, all members of the COVID-19 special Oireachtas committee, and all government negotiating teams.</p>
<p>Letter to Minister Humphreys re Trading Online Voucher and Business Continuity Voucher (3 June)</p>	<p>Asked for clarification that: in the case that the funding has not been allocated, is it expected that businesses whose application for the TOV/Business Continuity Voucher have not been processed will absorb the remaining allocated funding? If the funding allocation has been exhausted, are there plans to allocate additional funding? If the funding allocation has not yet been exhausted, can you clarify whether the LEOs, who have run out of funding, will receive additional resources? Is there a plan to reallocate</p>	

	<p>resources from schemes which have not seen the kind of uptake that the TOV has enjoyed? Similarly, is there a plan to allocate further funding to the Business Continuity Voucher Scheme?</p>	
<p>Submission to the Special Committee on Covid-19 Response on the topic of reopening the economy – the State’s response and support for business (5 June)</p>	<p>Recommendations included clarity on tax liability; SBCI/Microfinance Ireland Loan Scheme reforms; clarification on extension of the Trading Online Vouchers; extension of the Business Continuity Vouchers; significant expansion of the €250m Restart Grant; targeted expansion of tax deferrals (PAYE, PRSI, VAT); extension of commercial rates waiver from 3 months up to 1 year with 25% turnover decline as an eligibility criteria.</p>	<p>This submission was requested by the Committee and will inform their future meetings. (Response received on 5 June)</p>