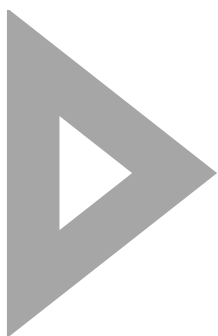
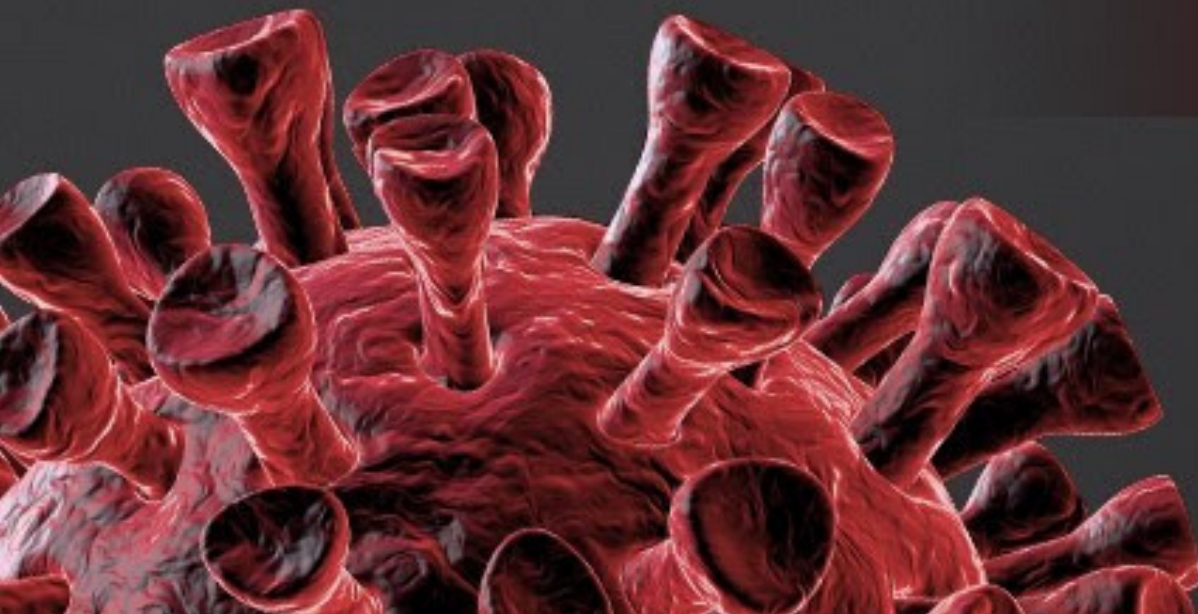


30th March, 2020



Pandemic Legal **intelligence** **deploy it before** it is too late

C O R O



Legal intelligence Series-Covid | Part III

AHMEDABAD | BENGALURU | NEW DELHI | KOLKATA | MUMBAI

"IT'S ALL ABOUT PANDEMIC LEGAL iNTELLiGENCE."

How are you placed?



The pandemic crisis of Covid-19 has brought legal professionals on their toes to assess the risk and guide business houses as to how to be in a **damage control mode**.

The assessment would revolve around pre-Covid-19, during Covid-19 and post Covid-19 stages since, at present, if the implications are not anticipated correctly, it can invite unforeseen & huge liabilities.

The broader concept of pandemic legal intelligence for any business requires a holistic view for employees, customers, Government compliances, liabilities, settlements, declarations, finance, obligations, etc.

In order to understand the best practices under pandemic legal intelligence, some of the major heads are dealt with in this white paper.



Contractual Obligations

The first impact is on every contractual obligation. It's high time to revisit the wordings and expressions deployed in the body of the contract. **Our advise to our clients is to pay special attention to the *force majeure* clause read with other clauses advocating for delay, disruption, damages, penalty, etc.**

A conclusion on the impact of non-performance which results into penalty and damages for non-performance so that the liability can be assessed and corrective measures can be taken in time.

The Force majeure clause in the contract needs to be understood with the events leading to it and suitable actions should be initiated to invoke or defend in a suitable manner. Our Covid Part-I released on 1st March, 2020 deals with it in an exhaustive manner.

The timing of invoking actions and safeguarding interests with the inbuilt clauses requires a perfect pandemic legal intelligence. There are various smart areas which can be worked upon and a strategy can be deployed to contain various liabilities.



Employment Concerns

The biggest challenge which the companies are facing during the pandemic era, especially when country wide lockouts have been declared, is contractual obligations between the employees and the employers. The deliverable aspects of employees' and employer's financial obligation is the bedrock of the concern.

The contractual workmen further add woes to this in as much as such workers at factory level are in thousands or lakhs for companies having operations at different plants in India.The notification issued under Disaster Management Act, 2005 has created various new repercussions and new legal twists.

The white collar employees have to be further suitably instructed with a new drawn module for working from home with restriction and policies of reporting to their employer as well.



The social media conduct policy is another area where the employers are worried since they have no control on the manner of usage of net and the online behaviour of the employees while they are working from home.

Recently, an employee of a global IT company was fired by their employer due to restrictive postings on social media. We have advised our clients for social media policies in lieu of directive of the Government to not spread rumors about Covid-19.

It is also incumbent upon the employer to take care of its employees during such time especially when employees are working from home. Proper guidelines should be in place for reporting any disease and particularly about Covid-19.

If any employee suffer from the same then it should be reported to the employer as being social responsibility of the employers to guide their employees so that they also don't spread such disease in community at large.

Ensuring medical policies of employees are in operation is also a concern where companies should work and HR department should play a pivotal role.



Insurance Implications

It is equally significant for every company to assess their claims and losses arising during the Covid-19 phase.

This has to be meticulously assessed as various unforeseen claims and losses can erupt over the time. A meticulous approach be adopted so that the requirement is not only strictly complied with but also timely actions are initiated so that the interest of the company is safeguarded.

The insurance policies should be closely revisited with respect to its specific terms, conditions and provisions in its entirety. The implications under various IRDAI notifications need to be properly assessed and understood.

The implications with respect to import and export orders should be also weighted for while assessing the claims and losses at any given point of time. A well informed decision and timely action coupled with conversant implications under the IRDA Act and Rules made thereunder can be a game changer.

insurance



Damage Control

Damage Control is the most crucial and integral part of the Pandemic Legal intelligence. Sometimes, a simple communication on e-mail can save unforeseen liabilities and act as a damage control exercise.

When things are uncertain like as prevailing during Covid-19, it is advisable to communicate on regular basis wherever any untoward incident seems to be occurring or may be triggered.

We have had experienced over the years that an email communication can do wonders including a dispute wherein it prevented a sure short damage claim getting substantiated in an international arbitration.

Never miss small things as they matter the most when it comes to damage control.

In other words, the simplest tool for damage control is simple communication and choosing your words very carefully.



Regulatory Watch & Compliances

It is imperative upon the in-house counsels and lawyers to keep watch over the developments and declarations made by various regulatory bodies, from time to time.

It will help to take an informed decision and review can be carried out by senior management of corporate affairs, legal and risk management in order to implement various functions.

Even though the compliances have been deferred by way of relaxations and reliefs by various Government agencies but still it is advisable that to the extent possible to keep a close track of the compliances and internally it should be worked upon so that such deferment does not result into failure of accountability at a later stage.



It should be always kept in the mind that employees are working from home and hence, many documents may not be in place or have got to be traced at a later date when the compliances will have to be made on the stipulated date.

We advise to keep a dedicated small team to work on this, on a regular basis, so that communication and internal process are in place to tackle such issues on any single day.

The day to day directives by regulatory bodies should be screened on a daily basis and stored properly to act upon it suitably.



Litigation Probability

It's time to realise that companies are heading towards a new series of pandemic litigation!

Every company may be having hundreds of commercial litigation but would have no litigation cropping up during the pandemic business cycle.

We anticipate that the post pandemic Covid-19 could also bring a pandemic litigation as the business cycles of every industry has been badly hit.

We are going to cover exhaustively on litigation probability under the Legal Intelligence Series-Covid | Part-4



Have you included correct factors while carrying out risk assessment under Pandemic Legal Intelligence?

Time to realise that the unforeseen legal implications can be **at par with the nature of COVID-19.**



Pandemic Legal Factors

The crucial factors need to be identified and addressed in the most effective manner during the pandemic crisis.

The broader picture may be the same but the intrinsic factors may vary from industry to industry.

The pandemic era can add disputes and liabilities for your company, are you really prepared?



ABOUT US

AMLEGALS is a multi-specialised law firm. We would love to hear your views, queries, feedback and comments on anand@amlegals.com or shailesh.dalvi@amlegals.com.

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“Correct Knowledge & Legal Strategy matters the most in law.”

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