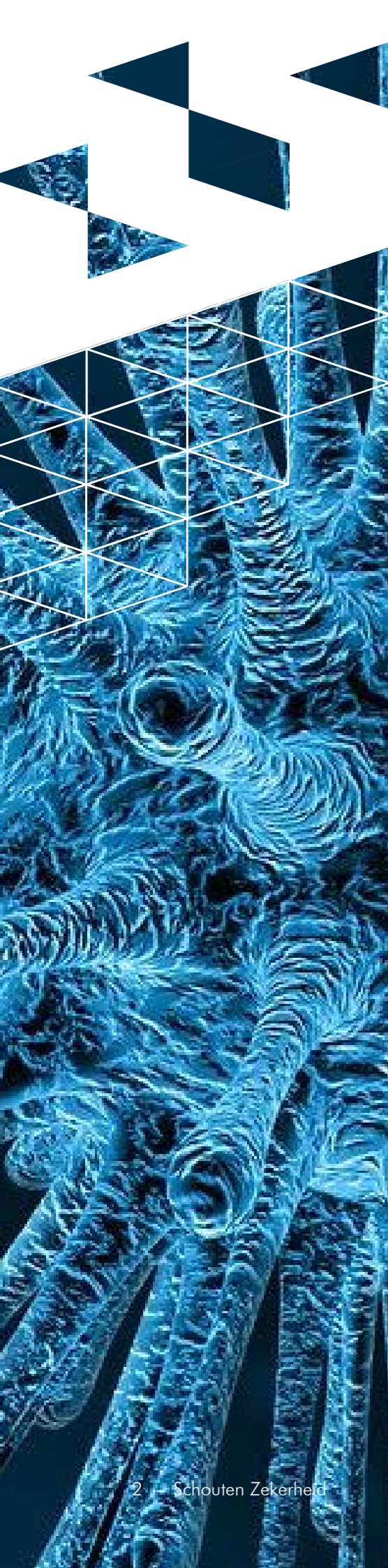


whitepaper

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# THE CORONA VIRUS AND YOUR OPERATIONAL CONTINUITY





The corona virus is impacting the operational continuity of nearly every company. This ranges from sick employees to acute liquidity problems. What does the corona virus mean for your business? Which risks should you take into account and to what extent are these covered by your insurance? What can you do to minimise the consequences of this crisis?

This whitepaper provides answers to these questions.

The corona virus is holding the world in its grip. While some countries opt for a lockdown, Dutch citizens are still allowed to leave their homes. The government is asking people to use their common sense and stay indoors as much as possible. Many living rooms have now been converted into offices/classrooms in which parents do their work and children follow their school lessons. Board games have also been dusted off to help pass the time. Including Jenga, a game in which you must stack wooden blocks and make sure this tower of wooden blocks doesn't fall down. If you want to win at Jenga, you have to be bold, skilful and you must have strategic insight. And, admittedly, a little luck.

#### Indispensable building blocks

If you want to safeguard the continuity of your company during this "corona time", you will also need at least these very same qualities. In Jenga, one block can cause your tower to fall and the same is true for your company which has a number of indispensable building blocks. This whitepaper discusses and provides answers to the questions that concern the five key building blocks:

- personnel
- customers and products
- suppliers
- buildings
- ICT

After reading this whitepaper, you will know:

- Which risks the corona virus has for your company.
- To what extent these risks are covered by your insurance.
- Which legislative measures you can utilise to minimise the impact of the corona virus on your company.
- What working from home means for the digital risks you run.
- How you can configure your insurance portfolio to address the corona crisis.

#### Moment in time

This document was published on 2 April, and this is of course, merely moment in time. Much is still unclear. Schouten Zekerheid is holding consultations with, among others, Adfiz (the branch association of independent financial advisers), the Dutch Association of Insurers (the interest group of damage and life insurers), the VNAB (the branch association for the commercial business market) and a number of branch representatives (including Royal Dutch Catering) in order to safeguard the continuity of your company also after the corona crisis.

#### Questions?

If you have any questions, or if there is something we can help you with, please feel free to let us know. We are more than happy to help you consider all the options so that you survive these uncertain times unscathed.

# Operational continuity during a pandemic

## Five indispensable building blocks for your company



## Personnel

### May I ask if my employee has corona?

No, but you are allowed to ask whether someone has travelled to a high-risk area and what their health complaints are. Your employees are not required to answer these questions, but must often, they will. You may not, however, collect and/or register their answers and other medical information concerning your employees.

### What is the role of the company physician?

The company physician does not play a role in the diagnosis of the corona virus. The general practitioner does this in consultation with the GGD (Municipal Health Service). The company physician may consequently then evaluate whether your sick employee is still able to do their work.

### What should I do if an employee working from home becomes sick?

An employee who is working from home and becomes sick is required to follow the usual rules. He or she must therefore report sick and follow the instructions given to them.

### An employee who is working from home is not sick, but someone at their home is infected with the corona virus. What does this mean?

In principle, the employee can continue with their work activities from home.

### My employee is not sick, but is afraid of being infected and refuses to come to work. What now?

If you have applied the prescribed hygienic and preventative measures, this can be designated as refusal to work. Amortising leave days or suspending salary payment is an option, but you will be better off to find a solution in consultation with your employee. Is working from home an option or are extra adjustments at work possible? If you really cannot come to a solution together, we recommend that you as an employer seek legal assistance.

### A family member of my employee is sick. What now?

In this case, your employee is entitled to disaster leave. This is intended for unexpected or highly personal special circumstances, such as the "necessary care on the first day of sickness" of the partner or child (children) or when the school or day care facility is closed. Disaster leave can cover several hours, and can only be used for a few days at most, the salary is paid in full during this period.

If a family member of your employee is sick, the current guidelines require the entire family to be in quarantine. Employees are entitled to a brief filial leave that amounts to a maximum of twice the weekly employment duration. During this period, 70% of the salary is paid out.





### **May I require my employees to come to the office?**

As long as the government does not make it mandatory to stay home, you can expect your employees to come to the office. Some employees, however, will be afraid to go outside. Ask them why they are afraid and let them know you understand. Perhaps the employee is afraid for the health of someone in their immediate surroundings or has health issues themselves. Discuss the alternatives and stay in close contact.

### **Am I allowed to adjust the working hours of my employees?**

Yes, it is even recommended that you spread out the working hours as much as possible in order to reduce the spread of the corona virus.

### **Am I allowed to require my employees take unpaid leave?**

No, this is not allowed.

### **May I refuse my employees to have access to the work location?**

The national advice is to have employees work from home as much as possible up through 28 April. As an employer, you are responsible for providing a safe and healthy work environment. If this is not possible, you can deny access to the work location, depending on the situation.

### **Am I required to allow my employees to work from home?**

The Ministry recommends that you allow employees to work from home as much as possible, if the work activities permit it. Try to make this possible. In addition, you can also spread the working hours of the employees at the office as much as possible.

### **Does the health & safety service make requirements of employers when employees must work from home?**

The Netherlands Law on Working Conditions also applies to working from home, but the rules for this are more lenient when compared to those that apply to the workplace at your company.

Inform your home workers about the rules and agreements in regard to, for example, taking breaks and the maintenance of computers and other devices. Inform them about the risks they run, such as the likelihood of developing RSI or work-

related stress. In addition, it is also recommended that you check whether the workplace meets the Health and Safety regulations. This can be done having your employees fill out a checklist or by having them submit a photo of their workplace. If working from home becomes structural or lasts longer than a few weeks, pay extra attention to the work conditions at the homes of your employees. Does an employee have a proper desk, a decent chair, a keyboard, a (second) monitor and such? If the workplace does not suffice, Consult with the employee and find out what they need and help them adjust their workplace.

### **Am I expected to make facilities available to make working from home possible?**

As an employer, you are responsible for making sure that your employee has the right facilities to work from home. If an employee does not have a computer or laptop at home, you are required to provide one, just as you are required to provide anything else they need to be able to do their work from home. Perhaps it is possible that the employee picks up the office materials, including the desk chair and temporarily installs them at home.

If you are concerned about the home workplace and the correct sitting position, have an ergonomic expert carry out research. Avoid having your employees develop physical complaints due to working from home. It is, for example, useful to give advice about how employees who work from home can continue to keep moving.

### **Can I, as long as home working is being done, stop paying the travel compensation for the home/work commute?**

This depends on the employment conditions of the company. If these do not cover this, you can only stop paying in consultation with the employees. If an employee does not come to work for some time, the claim to a fixed travel compensation for the home-work commute lapses. The employee, after all, is not incurring any travel costs. From a fiscal standpoint, travel costs may not be provided without taxation. If the employee is required to come to the office now and again, you should come to an agreement on the number of kilometres that can be declared.

### **I almost feel guilty to make my employees work in this current situation. Is that crazy?**

We can well imagine that you feel this way, but we recommend that everyone complies with the guidelines of the RIVM. When in doubt, it's better to be on the safe side.

### **Am I still able to send my employees abroad?**

Considering the world-wide uncertainty, we do not recommend that you allow your employees to go abroad. What's more, it is highly likely that they will be denied entrance to the country concerned. We recommend that you follow the advice of the Ministry of Foreign Affairs.

### **Can I as an employer be held liable for an employee who is infected with the corona virus during work?**

The employer's liability really depends on the situation, and there is hardly any jurisprudence that covers this. It is difficult to make any statements in regard to possible coverage because this is a unique situation we find ourselves in. Our advice is to respect the prescribed hygienic and preventive measures in order to reduce the likelihood of infection.

### **Is corona insured via the sick leave insurance?**

A sick employee is entitled to their salary. Sick leave insurance covers this payment obligation when the employee is too sick to carry out their work activities. This naturally also applies to an employee when he/she is placed in quarantine due to their sickness. There is no coverage when:

- An employee cannot come to work and/or is incapable of working from home due to government measures.
- An employee is suffering complaints but is not sick enough to be unable to carry out the work activities.
- An employee is placed in quarantine, but is not sick enough and capable of carrying out the work activities.
- A family member of the employee is sick and must be cared for.

Please note: many sick leave insurance policies have a waiting period (deductible excess) of two weeks or more.

### **How are sick leave insurers responding to the corona crisis?**

Some sick leave insurers are temporarily not making any offers, or they are implementing a deductible excess term of six weeks instead of two weeks with new sick leave insurance policies. For existing sick leave insurance policies, interim expansion of the coverages is often (temporarily) no longer possible. In order to prevent payment problems, some insurers are offering a change in the premium payment term for sick leave insurance policies without a term surcharge. A few insurers have already adjusted the coverage or are introducing clauses to explicitly exclude the damage of the corona virus.

### **How does the corona virus impact pension insurance?**

At this moment, there are no limiting conditions for employees who as a result of the corona virus become employment disabled or pass away. If, as a result of the corona virus, you are no longer able to pay the pension premiums, the pension providers may perhaps accommodate you by:

- Making payment arrangements.
- Broadening the payment term within the legal possibilities.
- Being less prone to engage collection agencies and/or impose administrative penalties.

A thorough explanation of these measures can be found on: [verzekeraars.nl/publicaties/actueel/coulance-bij-betalen-pensioenpremies-voor-door-coronacrisis-getroffen-bedrijven-en-sectoren](https://verzekeraars.nl/publicaties/actueel/coulance-bij-betalen-pensioenpremies-voor-door-coronacrisis-getroffen-bedrijven-en-sectoren).

In addition to these extra possibilities as a result of the corona crisis, you can also invoke the payment reservation from Article 12 of the Dutch Pension Act ([maxius.nl/pensioenwet/artikel12](https://maxius.nl/pensioenwet/artikel12)). You as an employer must then be able to demonstrate by way of an accountant's statement that there is financial inability to continue the current scheme.

### **How can I continue to pay my personnel despite a considerable decline in turnover?**

There is a Temporary Emergency Bridging Measure for Employment (NOW) which replaces the current working hours reduction scheme. The "NOW" is for entrepreneurs who expect to suffer a loss of turnover

of at least 20%. At the UWV (Employee Insurance Agency), you can apply for a compensation of the salary costs for a period of three months. The compensation amounts to a maximum of 90% of the wage bill and is dependent on the loss of turnover. The UWV then provides an advance payment of 80% of the requested compensation, whereby settlement takes place in arrears on the basis of the actual loss of turnover. During the subsidy period you may not dismiss any permanent or temporary personnel on company economic grounds.

### When calculating the loss of turnover, is the input of own personnel and external personnel taken into account?

The criterion at the NOW is loss of turnover. The balance between permanent and flexible employees has not (yet) been addressed.

### May I dismiss someone after two years of sickness on the basis of the NOW?

Within the current legislation, it is possible to start the dismissal procedure for someone who has been

sick for more than two years. The NOW is not expected to have an influence on this.

### Can I cancel the contracts of new employees who haven't started working yet?

Some companies choose to dissolve the contract at the start of the trial period. Other companies consider it their moral duty to uphold their agreements when it comes to the employment. Of course, the future outlook of your company also plays a role in this.

### Where can I find an overview of all the measures?

The tax measures can be found on: [belastingdienst.nl/wps/wcm/connect/nl/home/content/coronavirus](https://belastingdienst.nl/wps/wcm/connect/nl/home/content/coronavirus). The websites of the RIVM ([rivm.nl/coronavirus/covid-19/vragen-antwoorden](https://rivm.nl/coronavirus/covid-19/vragen-antwoorden)), the Chamber of Commerce ([kvk.nl/corona/](https://kvk.nl/corona/)) and the Central Government ([rijksoverheid.nl/onderwerpen/coronavirus-covid-19/veelgestelde-vragen-per-onderwerp/financiele-regelingen](https://rijksoverheid.nl/onderwerpen/coronavirus-covid-19/veelgestelde-vragen-per-onderwerp/financiele-regelingen)) also provide much information.

## Customers and products

### Can I take out insurance against damage as a result of the corona virus?

It is not possible to take out insurance as a result of the corona crisis. The consequences of excesses such as a pandemic are unforeseeable; the rates of insurers are not calculated on the damage that a pandemic can cause.

### Does travel insurance cover any possible damage?

With many insurers, damage and/or cancellation due to an outbreak of a virus is not an insured event. We recommend that together with us, you check your policy conditions.

### Which insurance can I suspend?

Travel and events insurance can be suspended. This also applies to the insurance of work materials, if the materials are untouched or not used for more than thirty days.

For transport insurance, the height of the transported turnover can be adjusted if this amount is 30% lower than expected. The insured amount of the inventories maintained can also be adjusted. With liability insurance for companies, the change in turnover can be processed via the settlement in arrears. This takes place in the first quarter of 2021.

### How should I handle my customers during this period?

The contact you have with your customers is now more important than ever. We recommend that you make mutual arrangements in regard to the supply of services and payments, and to (once more) discuss the conditions of the collaboration and the agreements with suppliers.

### What else can I do safeguard the continuity of my company in this period?

Business activities can possibly be changed temporarily and commercial tools can be implemented for other purposes. An entrepreneur who rents his hotel to a hospital is a good example of this. At the end of this whitepaper we will delve deeper into the consequences and risks of adapted business models.

## Emergency package for jobs and the economy - temporary financial measures

Income and salary compensation		
	For whom?	Where do I apply?
Emergency Bridging Measure for Employment (NOW)	Employers with at least 20% loss of turnover	UWV.nl
Goodwill in regard to the written establishment of permanent contracts	Employers	Belastingdienst.nl/coronavirus
Bridging scheme for self-employed entrepreneurs (Tozo)	Self-employed entrepreneurs, including self-employed persons	Own municipality
Compensation for Entrepreneurs in Sectors Affected by Covid-19 (TOGS)	Small to medium-sized companies that are directly affected by government measures**	rvo.nl/tegemeetkomingcorona
Tax postponement		
Postponement of taxes	All entrepreneurs and self-employed persons	Belastingdienst.nl/coronavirus
Lowering of late payment interest	All entrepreneurs and self-employed persons	Automatically arranged
Change of provisional assessment	All entrepreneurs and self-employed persons	Automatically arranged
Change of provisional assessment	All entrepreneurs and self-employed persons	Mijn Belastingdienst (Zakelijk)
Tourism tax	Companies in the food and beverage business and recreation branch	Own municipality
Easing of credits		
Broadening of guarantee for small to medium-sized companies	Self-employed persons and small to medium-sized companies*	Your credit provider
Agricultural Credit Guarantee (BL)	Agrarian entrepreneurs	Your credit provider
Company Facility Warranty (GO scheme)	Small to medium-sized companies and Large corporations	Your credit provider
Qredits	Self-employed persons and small to medium-sized companies	Qredits.nl

\* with the exception of certain sectors, see [rvo.nl/bmkb](https://rvo.nl/bmkb)

\*\* as long as the physical establishment is off-site and active in the selected sectors





## Suppliers

### **I am afraid that I can no longer pay my buyers on time. How can I avoid financial problems for myself?**

Active debtor management is very important. It is advisable to know who you are doing business with and to stay in touch with the suppliers. Consult them if payments are outstanding and try to make agreements to prevent bankruptcy. Perhaps a payment instalment plan is possible? If you run into a cash flow problem, factoring may be an option. You then carry over the invoicing and the debtor risk to a specialised firm, whereby the money is on your account within 24 hours after invoicing.

### **Can I request a down payment with new orders?**

This is a fairly common way to spread the risk. We recommend you mention this option in the conversations you have with suppliers and customers.

### **I have made a down payment, but delivery remains outstanding. Should I return (a part of) the down payment?**

That depends on the content of the agreement. The advice is to always make arrangements for this when entering into (new) agreements, so that everything is clear.

### **What does my credit insurance cover?**

The credit insurance covers the risk of non-payment and bankruptcies. The credit insurers are currently collaborating with their clients and are taking measures to maintain the covers. For example, the period for reporting non-payment has been extended from 30 to 60 days and sometimes even 90 days. This way, entrepreneurs are given the opportunity to pay later without consequences.

### **I have no credit insurance. Which instruments do I have to limit my debtor risk?**

Make sure you have a proper and efficient debtor management in place. There are plenty of credit management systems available to help you with this. It is also important to know who you are doing business with. Use of credit information reports and payment experiences of other organisations in order to evaluate whether the (potential) customer/supplier is financially stable. If payment still remains outstanding despite this, a collection agency or a collection lawyer can help you with the claim.

### **Can I be held liable if, due to the corona crisis, I am unable to supply to third parties?**

In the current situation, invoking force majeure is not unimaginable. Legally speaking, it remains to be seen whether the corona crisis justifies invoking force majeure. This will largely depend on what is contractually agreed, among others. DVAN Lawyers give an answer to this question in the following article: [dvan.nl/kennis/nieuws/corona-en-overmacht](https://dvan.nl/kennis/nieuws/corona-en-overmacht).

## Buildings

### **How can I ensure a safe workplace?**

Also apply the measures that must be taken to prevent the spread of the corona virus on the work floor. Communicate these measures to the employees, check and make sure that these are being complied with:

- Keep at least 1.5 metre distance from one another.
- Regularly wash your hands.
- Cough and sneeze into the crook of your elbow.
- Use paper tissues.
- Do not shake hands.
- Use hand soap, disinfecting gel and tissues in the workplace and the toilets.
- Regularly clean doorknobs, light switches, stair railings, keyboards and computer mice.
- Greet one another without making physical contact.

### **What else should I take into account?**

Closing your company for an indeterminate time? Consider the security. Has a construction project been interrupted? Remember to properly lock up the building and safely store away valuable materials. Perhaps the construction period of your CAR insurance has to be extended?



## ICT

### What should I as an employer do to make working from home possible?

First make sure that working from home is actually technically possible. The best solution is if employees can log on to your company system from home via a network connection facilitated by you. This system will safeguard the security of the data.

Explain to the employees how they should store and digitally send files, (personal) data and other confidential company information. Make sure they are aware that:

- Documents with personal data or confidential/sensitive information are not simply tossed in the bin.
- Photos of the employee working from home are not to be distributed if these photos show confidential (personal) data in the background.
- Housemates are not intended to have access to confidential or sensitive information.

Lastly, give them tips on healthy working from home and stimulate them to stay in touch with their colleagues by way of (video) calling.

### What are my options if my company does not (yet) have the facilities for working from home?

Perhaps the employees can temporarily use their own e-mail address? Do make sure that copies of the messages are also sent to the work e-mail address. Do everything you can to create an accessible workplace at home or on the road.

### How do I manage the cyber risks with working from home?

- Make sure you can provide the necessary (network) capacity to serve the larger number of home workers. This includes both the IT infrastructure and the telecommunications infrastructure.
- Evaluate which employees are required at the office in order to support the IT services necessary for working from home.
- Consider which adaptations may be necessary for your emergency response plans if an incident occurs with very few employees present.
- Make the use of a secured connection to the company network mandatory by implementing for example, a Virtual Private Network (VPN) or other secure home working solution.
- Make sure that the home working solutions are tested and updated.
- Configure your applications that are essential for working from home with extra security monitoring.

- Make use of multi-factor authentication (MFA) as much as possible for access to your company network and make the use of strong passwords mandatory.
- Install the most recent updates for hardware and software.
- Make sure your employees are aware of phishing in regard to the corona virus and how they should report this. Take into account a possible increase of reports regarding phishing e-mails and false e-mails.
- Make sure your organisation guidelines are up to date and known among the employees. These include for example, information security involving (home) use of hardware and software and the possible use of private IT facilities.
- Do not click on links in e-mail messages; do not open attachments and do not enter information in response to e-mail messages that are unexpected or from an unknown sender.
- Maintain the organisation guidelines in regard to information security. Be aware of the information you handle at home and what you discuss in messaging apps or during video calls.
- Always follow the company guidelines in regard to the use of hardware and software. This includes the use of private and supporting devices and the installation of applications. An example of a malicious application is the "COVID19 T racker". This installs the Covid Lock ransomware on devices with an Android operating system.

### What can my employees do?

- Always use a trusted and secure (Wi-Fi) network.
- Be prepared for a longer reaction time due to capacity problems which can cause applications to run more slowly.
- Be prepared to receive phishing e-mails and false e-mails about the corona virus. Precisely during this period criminals will use phishing e-mail to spread malware. Do not respond to malicious e-mails and report these to your administrating organisation immediately.

### Despite all the measures, my company has been hit by cyber criminals. Is the damage insured?

No matter how many measures you implement, the chance exists that a cyber-attack will have considerable (financial) consequences. An insurance policy may help, but this risk is often not covered in your business insurance. Ask for good advice in regard to the option of taking out a special cyber insurance policy. Every company is faced with digital risks, including yours.



## These times require creative entrepreneurship

The corona crisis affects us all and there is much uncertainty. What can we expect? How long will this situation last? When will we be free to work again? What does this crisis mean to my company?

The situation varies for each entrepreneur. While one business owner is required to close its doors for a number of weeks on order by the government, other companies can continue working as usual. Some companies are actually unable to handle the amount of work at the moment and are busier than ever. These include health care companies, companies in the food industry and those that are active in the transport of food and the supply of supermarkets.

### Adapted business models

Many new initiatives have also been created in response to the corona crisis. Entrepreneurs have (temporarily) adapted their business models. A hotel owner who makes his vacant rooms available to a hospital, transport companies that switch to supplying supermarkets, personnel that is implemented in other disciplines. One thing is clear: creative entrepreneurship can really make a difference now!

### New risks

Make no mistake, the health of your personnel and your business operations is the number one priority right now. Is everyone safe? Will my production be able to continue? Can I pay the salaries and the rent next week? Changed business operations involve new risks, but you may not immediately think of your insurance when making these changes.

A few examples:

- You will now start delivering which you never did before. Will your insurance cover that?
- Your work activities have become broader in nature. Will the description of your work activities still correspond to your insurance?
- Your inventory of finished products is running out. Are your insured amounts still in order?
- You loan personnel to third parties. Is that allowed? What if they become sick or have an accident?
- You rent out materials to third parties. Is that allowed? What if these break or are lost?
- You make your software or expertise freely available. What if something goes wrong?
- You respond to changed demand and you expand your offering of goods and services. Does this still correspond to your insurance?

### Small change

Schouten Zekerheid gladly helps you consider the risks you will be faced with when make changes in your business operations. To ensure that you won't be jumping out of the frying pan into the fire when an uninsured event occurs. Most often, a small change in your insurance portfolio will suffice!





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