

brokerwise

Brought to you by: **Council of Queensland Insurance Brokers Inc**

Welcome to brokerwise

Within the pages of this quarterly newsletter we plan to bring you a variety of interesting stories, opinions and news items.

in this issue

- Asset protection**
...for directors.
- Successful Succession**
...it's all in the planning.
- Pay up now**
...or choose premium funding.
- Burglaries**
...numbers reduced.
- Insure your travel**
...and breathe easy.
- Product tampering**
...insure that risk.



Management breaches covered

Directors & Officers Liability insurance was once pretty much restricted to public companies but in recent times it has become much more readily available and now most private companies who have been in business long enough to establish a sound track record would also qualify.

This form of insurance is designed to protect the directors and officers for claims against them for matters arising out of breach of their duty in the running of the company. It does not provide cover for claims against the company but provides for reimbursement to the company in cases where the company has indemnified the directors and officers where legally required or entitled to do so.

Personal litigation against directors and officers could be instigated by employees, shareholders, investors, regulators, suppliers, customers and others. Even if innocent, very significant defence costs could be incurred.

Many potential directors will not agree to join a Board unless there is a substantial Directors & Officers Liability Insurance policy in place as their personal wealth and possessions would be vulnerable in the event of a claim. Small business owners who are directors of their own companies should be thinking along the same lines.

Whilst directors and executives would be protected under a Directors & Officers policy for employment related claims such as discrimination, sexual harassment or wrongful dismissal, quite often the claim is made directly against the company which has no cover for such claims under a standard Directors & Officers Liability policy.

For that reason Employment Practices Liability insurance for the Company (as distinct from the Directors & Officers) became available either as an extension to the Directors & Officers policy or as a stand alone policy with some insurers.


Coverage is now available through at least two insurers for inadvertent breaches of Acts of Parliament where you may be liable to pay a penalty or a fine to a regulatory authority, but not for wilful, intentional or deliberate breaches nor breaches caused by gross negligence, recklessness, malice, fraud or dishonesty.

Typical penalties which may trigger claims are for inadvertent breaches of Occupational Health & Safety Acts, Environmental Acts and Employment Practices Legislation. Fines tend to be arbitrary for breaches of this type of legislation and are often imposed even if the business owner had taken steps to avoid the incident resulting from the breach.

Several Insurance Companies have developed policies specifically for Private Companies which wrap up some or all of the following in one policy, usually at a reasonable price.

- Directors & Officers Liability
- Employment Practices Liability (for the company and the directors & officers)
- Fidelity (employee theft)
- Internet Liability
- Advertising Liability
- Superannuation Trustees Liability
- Kidnap, Ransom & Extortion

One Insurer has developed a new policy which combines Directors & Officers Liability and Employment Practices Liability with their Public & Products Liability Insurance and have also included Professional Indemnity for small businesses that provide advice or design services but do not fall into the category of the professions who traditionally carry stand alone Professional Indemnity insurance.

There is a lot more to this subject than we can fit into a small article, so give us a call and take the first steps towards protecting your hard-earned financial wellbeing. 

Succession Planning

It can be hard to let go of the reins of your business and let others take control but your exit from the business will come one day, so why not plan for it now and have it happen your way.

Without a proper succession plan in place a business that has relied heavily on the owner's efforts could find its very survival in jeopardy. The owner's absence may create a void in key management skills and in critical areas of expertise. Do you have the right people to step up and competently perform your role? Will critical relationships with clients that you have personally built and nurtured over the years remain? If you don't know the answer to these questions then there is a good chance the answer is no. The loss of the business owner can also have an impact on staff. An atmosphere of uncertainty may settle into the workplace. Facing this, staff may seek work elsewhere, adding to the mounting business pressures.

Whether you are a sole trader, in a partnership or a director of a company, with no clear transition plan, your family, your business partners or fellow directors and shareholders can be left stranded. Your business associates may need to take on board additional roles that they may not be adequately equipped to perform. Restructuring of finances and ownership interests may lead to messy disputes involving both your business partners and your family. The business will invariably suffer under the emotional and financial strain. While these possibilities paint an alarming picture, it need not be devastating for those left behind. You can put measures in place now that will minimise the impact of the unexpected.

1. Structure of business/financial affairs.

Maximise protection of key assets such as your home. You should also periodically review your business structure with your advisers to keep it current as circumstances change throughout your life.



2. Get your house in order.

Prepare a will and ensure it is kept up-to-date. Appoint an executor who understands your wishes.

Notify business partners and your spouse of your trusted advisers such as solicitors, accountants, bankers, insurers and financial planners and of your dealings with them. If you are like most business owners, these will change from time to time.

3. Take out appropriate insurances.

We often see insurances as a necessary evil but they should be an integral part of your protection strategy.

Take out insurance policies on each of your partners, and them on you, so that any insurance payouts can be used to buy out the relevant business interest.

4. Train staff and delegate authority.

Many business owners get overly caught up in the day-to-day running of the business. This can create a dependency on the owner that can stifle the development of staff into future company leaders.

5. Blueprints, systems and manuals.

Invest in a company manual. Documenting the procedures and systems that make your business work well has many benefits. It adds value to your business if you were to sell, improves the efficiency of staff training and facilitates a smoother transition to new management.

6. Business plans.

Your business plan is your current view of the world and your plans for how you are going to tackle the challenges and take advantage of the opportunities and address potential threats in the next few years. It is the powerful legacy you will leave that says "if I were still here, this is what I would do". It is the most direct way that you will continue to guide your business after you have moved on. 🐻

Burglaries down

Here's a report about crime reduction statistics that may ultimately flow on and trigger reduced premiums for household insurance.

A report released recently by the Australian Bureau of Statistics revealed that an estimated 260,000 Australia households were on the receiving end of at least one break-in during 2005. Not a particularly heartening statistic but when compared with the year 2002 we can be somewhat relieved and

encouraged to learn that this is a drop of 27% - down from 354,500.

Similarly, attempted break-ins have also decreased by comparable figures over the same time.

The cost of burglaries to the insurance industry is mountainous but if the downward trend continues, then, hopefully, the cost of burglary claims will follow suit and finally show up in premium reductions. 🐻

Workers Comp premiums now due

For years Queensland employers have had the option and convenience of time payments when paying their premiums to WorkCover Queensland.

That's all changed. Advice from WorkCover Queensland is that from this year payment plans will only be offered where an employer can show genuine hardship or demonstrate their inability to pay the premium in full by the due date.

In order to demonstrate this, employers are required to meet the following criteria:

- The premium must be greater than \$2,000.
- The employer must state why the premium cannot be paid by the due date.
- The employer must provide details of steps taken to obtain funds to pay the premium. (For example, unsuccessful applications for a bank overdraft or premium funding).
- The employer must provide details of any arrangements that are in place to pay debts owed to other creditors.

A detailed statement of the employer's current financial position or last reported financial position is required. This needs to be certified by your accountant and provide the following information as a minimum:

- Income and expenses by category.
- Total assets by asset category.
- Total liabilities by liability category.
- Projected cash flow for the year.
- A copy of most current bank statement.
- A copy of most recent income tax return lodged.
- Statement as to how the proposed instalment arrangement will be met.

If WorkCover accepts your application, instalment payments over four months may be offered.

This WorkCover decision gives us the opportunity to remind you that we can provide more information about the business cash-flow benefits of premium funding. Please call our office, but don't wait too long, WorkCover premium renewal notices are already being issued with payment due by 30 September 2006. 🐻

It won't happen to me

With the excitement of an overseas trip squarely in your sights, even if it is months down the track, the danger is that the all important travel insurance aspect will receive perfunctory attention. You know you need it, you grudgingly buy it, you get the policy doc and... into the drawer it goes, possibly unread, often unopened.

This little booklet, at relatively little cost, is all that stands between you and calamity... if the dice rolls against you. Yes, we know, it's full of words and no pictures but be brave, read it before you buy it and consider the maximum benefit you'll likely receive as a consequence of specific unfortunate events.

There are a variety of travel insurance policies available and although in the main the cover is similar eg. baggage, cancellation, medical and hospital, etc., the specific words of each policy differ widely and it is those differences which can affect the outcome of a particular claim.

Things to look for include-

- The levels of cover for each section of the policy.
- The conditions that apply to pre-existing illnesses and incapacities.

- The maximum sums insured for individual items: eg. cameras, laptops etc.
- Any limitations regarding hazardous activities eg. motor-cycling, skiing, bungee jumping, etc.
- Read the exclusions carefully.
- Confirm that the policy term covers the entire duration of your journey and includes the lead-up time to departure.



- Be prepared and check the policy for Insurers requirements regarding claims procedures. For example: reporting a loss to airport authorities, police, hotel management and the gathering of documentary evidence like receipts and police reports etc. It's best that you have knowledge of these procedures in your head from the outset and not have to get your head around them after the trauma of an 'event'.

- Read the policy again before departure to ensure that the cover choice still suits your needs.

- Take the policy document with you... and don't forget your camera. Bon voyage! 🐻

A deadly inconvenience

In Australia in recent years there have been a number of well publicised product tampering incidents and associated extortion attempts which have led to major losses, most well in excess of \$10,000,000. These have included pharmaceutical products, one being around \$100,000,000 and another in excess of \$15,000,000 as well as a biscuit manufacturer (\$40,000,000) and several claims involving other food manufacturers and a large restaurant chain.

The opportunity to place this class of insurance in Australia is very limited with only a very limited number of insurers offering the cover here or offshore through Lloyds of London and possibly other American or European insurers.

The insurance is designed to cover three main scenarios:-

- Accidental Contamination or Mislabelling of Product
- Malicious Product Tampering (actual, alleged or threat of)
- Product Extortion (threat to commit product tampering for the purpose of demanding extortion money)

The coverage is for Loss of Gross Profit, Recall Costs, Crisis Consultants Costs, Cost of Restoration or Replacement of Affected Product and certain other costs and expenses incurred as a result of one of the insured events i.e. Contamination, Tampering or Extortion.

Typically, accidental or unintentional contamination or mislabelling of the product must occur during or as a result of its production, preparation, manufacture or packaging and must have resulted in (or would result in) bodily injury, sickness, disease or death of a person following consumption or use of the product.

The policy excludes legal liability claims for personal injury caused by the contaminated product or product which has been tampered with, as this would normally be covered by Public and Products Liability insurance.

The products must be ingestible products for human consumption (or their ingredients or components). This particular type of policy does not provide cover for products manufactured and sold for animal consumption such as stock feed or pet food nor for non-ingestible products such as cosmetics, which could be contaminated or subject to tampering or extortion threats. A different 1st Party Recall policy is available for non-ingestible products or products manufactured for animal consumption.

Product tampering has obvious, potentially crippling consequences for producers and we therefore recommend that all manufacturers of vulnerable products give serious consideration to arranging appropriate insurance protection. 🐞

Be sure ...before you insure!...ask your Council of Queensland Insurance Broker about...

COMMERCIAL AND RETAIL INSURANCE

- Business Property
- Business Interruption and Loss of Rent
- Liability, Money, Glass Breakage
- Burglary
- Machinery Breakdown
- Computer
- Goods in Transit
- Contractors Risk
- Motor
- Tax Audit

LIABILITY

- Public Liability
- Products Liability
- Professional Indemnity
- Directors and Officers
- Employment Practices Liability

PRIVATE AND DOMESTIC INSURANCE

- Home and Contents
- Car, Caravan, Boat and Trailer
- Travel

INCOME PROTECTION INSURANCE

- Long Term Disability
- Sickness and Accident

LIFE, SUPERANNUATION, PARTNERSHIP

- Mortgage Protection
- Key Man
- Term Life
- Superannuation



The CQIB represents over 50 Queensland firms employing nearly 400 staff

and placing \$400,000,000 in annual premiums. The CQIB charter is to maintain the level of professionalism of its members by the sharing of knowledge, information and ideas.

For more information visit www.cqib.org.au

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wisewords ... on Business.

In the business world, everyone is paid in two coins: cash and experience. Take the experience first; the cash will come later.

Harry Geneen

Executives who always suggest solutions when they present the problems will get on in business.

Malcolm Forbes

In business, the dinosaur's eloquent lesson is that if some bigness is good, an overabundance of bigness is not necessarily better.

Eric Johnson