

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

Hurricane aftermath

...an ill wind sustained.

Asset value?

...ask a Valuer.

Corporate Risks

... minimised.

Tax audit?

... no worries!

Sports injuries

... the road to ruin.

Get B.I. cover

... mad if you don't.

What goes around...

The series of hurricanes which have recently devastated the southern states of USA may not have a direct 'life and limb' effect on us here in Australia but their impact will hit us eventually - in our pockets. There will almost certainly be an increase in our insurance premiums next year.

The global nature of insurance is such that the big reinsurance companies, which act as bankers to the worldwide insurance markets, will take a huge hit in terms of insured losses (some experts estimate US\$100 billion plus) and the capital of these companies will be considerably depleted.

If past catastrophes such as September 11 can be taken as a guide, the reinsurers will tighten the screws on the direct insurance companies to increase premiums and avoid high hazard risks if they want the continued support of reinsurers.

Reinsurers share in most risks insured by the direct insurance companies, either by underwriting a portion of each policy or by agreeing to share in the cost of a catastrophe.

The main method of doing this is by annual contracts between the direct insurers and the reinsurers, known as "treaties".

Most of the major insurance companies operating in Australia will have treaties due for renewal in December and some in the early part of next year. Although the direct insurance companies will negotiate hard to keep their reinsurance costs down in order to remain competitive, it would be unrealistic to expect that the reinsurers would not insist on higher premiums and a tougher stance on underwriting criteria.

We should therefore brace ourselves for increased premiums, particularly in the commercial and industrial sector. As well, expect an increase in policy excesses and a shortage of availability of cover for high valued, high hazard industrial risks.

No one can say for sure whether Katrina and her siblings were caused by global warming but international attention is again turning to the potential links between rising temperatures and catastrophic weather events. It's not just scientists studying the relationship, but insurance companies too. Global insurance giants are now doing their own climate change research to try and predict where natural disasters might occur so that rates can be set commensurate with the perceived risk. 



Member:



Insurance brokers are not valuers

On a daily basis, we, as insurance brokers, stress the importance of making sure insured values of assets are adequate. In fact, the fire section of all commercial policies and some household policies are subject to underinsurance penalties.

The underinsurance clauses are usually called Co-Insurance Clauses because you, the client, as the insured party effectively become a co-insurer responsible for any uninsured portion... and you must share in claims accordingly.

In a total loss, if you are underinsured, you would receive the Sum Insured as stated in the policy and you would bear the balance out of your own pocket as if you were a Co-insurer.

In the event of a partial loss you would have to bear a proportion of the repair cost according to the degree of underinsurance. Usually there is a tolerance of 15% or 20% of the value before underinsurance clauses become operable but, of course, you can never receive more than the Sum Insured.

The problem is how do you really know if you have enough cover?

Insurance Brokers are not qualified to act as Valuers and can never accept responsibility for the adequacy of Sums Insured. As brokers, we can only suggest that you obtain a valuation for the cost of



reconstructing a building or of replacing contents. There are Valuers who specialise in insurance valuations. Alternatively you could ask a Builder, Architect or Quantity Surveyor and in the case of plant and equipment you could check with the suppliers to ascertain current values.

You should not need to obtain a valuation every year provided you take into account increases in building costs and rising prices for machinery and plant in the intervening years.

Obtaining a valuation may incur a fee but it will be money well spent if you have a fire or some other insured catastrophe. 🐻

Cover your assets

Small to medium companies and their directors and executives now have access to insurance protection against corporate risks that the owners, management team and the company itself may be exposed to arising from dealings with customers, employees, regulatory authorities, competitors and others.

Even if you consider your business to be well run, no one is immune from legal action which, if instigated, could have a devastating effect on your bottom line. You could be sued by a customer for eventualities of all kinds including breaches of the Trade Practices Act for instances of misleading and deceptive conduct, or for contract disputes, price discrimination or misuse of confidential information – the list goes on.

Employees regularly take action for unfair dismissal, sexual harassment, age and gender or race discrimination. And 'failure to promote' or 'breaches of contract' are common accusations. Competitors could take action against you for patent infringement.

Regulatory authorities such as ASIC, ACCC and various government agencies are actively pursuing companies and their directors and officers for a variety of breaches such as unfair trade practices, occupational health and safety issues, environmental impairment, alleged fraud or dishonesty and taxation breaches (more about the latter in this issue).

Insurance in one form or another is available to preserve and protect you and your assets from all these threats. It is even possible in certain circumstances to cover fines for accidental breaches of Occupational Health and Safety or Environmental Protection legislation.

Many of these exposures were previously only realistically afforded by large public companies but are now available to private companies at a reasonable cost as part of a combined package or as separate coverage. Contact our office if you would like more information about availability and cost. 🐻

The business lifeline

An important and essential part of a business owner's insurance programme is Business Interruption Insurance (BI).

Our experience shows that BI insurance is more crucial to business survival than property or liability insurance protection. Assets insurance by itself is inadequate if you lose the ability to continue trading.

Research of fire losses in Australia in the 1990s showed that 43% of businesses suffering a major fire (but not necessarily a total loss) did not reopen for business. Despite having some forms of insurance 28% of businesses failed within the next three years. Only 29% of businesses survived.

More recent research by an Insurance Council of Australia study revealed that small to medium businesses made up 17% of Gross National Product

employing 2,500,000 people, yet 42% of these businesses had no business interruption insurance. Surprisingly, 17% had no insurance at all – that is nearly one in six businesses. And it gets worse. It is estimated that of those businesses insured 40% are severely underinsured and 15% significantly under insured.

Generally, small and medium businesses have limited access to financial resources; they are also likely to be highly geared with directors having given personal guarantees to secure loans. This could make their businesses even more vulnerable if they are not insured adequately.

Including a Business Interruption insurance premium in your business budget makes sound financial sense. Premium funding can help if limited cash flow is an issue. Contact our office for more information. 📞

The taxman cometh

Long gone are the days when a small businessperson could prepare his own tax return, at least one that correctly responds to current taxation laws. Today, the services of a qualified tax accountant are essential to ensure the necessary return/s comply with the ever-changing and myriad tax laws.

Added to this comes concern that all those tax laws have been properly addressed in your return. What if a glitch occurs – big error or small oversight, yours or your accountants? The taxman raises an eyebrow, gets interested and a tax audit ensues.

Not such a big deal for one man businesses perhaps but larger enterprises could be looking down the barrel of thousands, perhaps tens of thousands of dollars in costs.

This is when your friendly insurer can come galloping to the rescue, always assuming, of course, that you had the cover in the first place. No, they won't be able to get the audit dropped but they can reduce the financial burden.

Generally speaking, policies for this type of exposure cover statutory returns lodged by the insured to State and Commonwealth Government Agencies involving tax returns of most kinds including income, fringe benefits, capital gains, GST, payroll as well as stamp duty, superannuation, ASIC company returns and many others.

The cover applies when the insured is advised during the period of insurance that a previously lodged statutory return is to be audited or investigated. The costs to provide the additional

information requested is paid by the insurance company under the terms of the policy.

These types of policies can provide cover for individuals, be they wage earners or self employed; companies and other business entities. How much cover, in dollar terms, can be determined by the specific needs of the policyholder.

As in Directors and Officers policies, cover can also be extended to provide legal fee protection to the policyholder should legal proceedings arise.

Naturally, policy details and premium costs vary from insurer to insurer. Please contact our office if you require further information. 📞



Beware the knock-on effect

A rugby league player successfully sued a rival club and two of its players for negligence arising out of a “dangerous throw” or “spear tackle” during a game. The injured player suffered soft-tissue injuries to his neck and may never play rugby league again. The two players were charged under the laws of the game with having made a dangerous throw. Both pleaded guilty.

Finding the two players and their club liable for negligence, with damages to be determined later, the judge said, “Whilst playing a rugby league game was not the time for calm and reflective thought the actions of the pair could not be justified given the description of the tackle and players experience. The rules expressly prohibited this type of tackle and the guilty pleas at the Tribunal were an acknowledgment that the tackle was dangerous and that each player failed to exercise reasonable care”.

This case does not break any new ground but serves to re-focus at least two liability issues for clients who spend their leisure time actively involved as participants or organisers of sporting pastimes:

1. Always take reasonable care (at the playing, coaching and management levels) to ensure that sport is played “within the rules of the game”.

2. Consider pleas (particularly guilty pleas) at tribunals carefully as they may be later used as evidence of a player’s acknowledgment in relation to conduct at a civil trial.

As this story illustrates, sporting clubs of all types, professional, amateur, senior and junior, can be successfully sued for on field activities if players, in any sport, fail to play within the rules of the game or commit other negligent or wilful acts which could injure a player or a spectator. Management, committees, coaches and staff should be aware that as custodians of their sporting club activities that they do have a responsibility to other players and the public for on and off field activities. 🐼



wisewords ... on Memory.

He who is not very strong in memory should not meddle with lying.

Michel de Montaigne

Nothing fixes a thing so intensely in the memory as the wish to forget it.

Michel de Montaigne

The palest ink is better than the best memory.

Chinese Proverb

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

Acknowledgements

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