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## When the power goes out – is my business covered?

During September 2016, two severe storm fronts swept across South Australia in what could be described as one of the most extreme weather systems to hit the state in 50 years. While the entire state was without power for several hours, many businesses were without power for several days, resulting in a significant loss of turnover.

Is this type of loss covered by business insurance? Short answer is, it depends on the type of policy you have.

Firstly, for any claim to be paid as a result of loss of turnover, the business must have business interruption insurance. Unfortunately, many Australian businesses operate without business interruption insurance. Business interruption insurance covers



the shortfall in gross profits caused by the interruption to the business from any insured events. It also helps pay ongoing costs and protects profit margins until the business is back on its feet and at the same profit level before the interruption. Secondly, although a business may have this cover in place, in some instances, some policies might exclude claims made if the

utility (electricity, gas, water supply systems, or land based telecommunications) is not immediately adjacent to the insured premises.

Thirdly, even when your insurance does cover you for utilities not adjacent to the insured premises, there is generally an excess period of 48 hours.

This means in an outage such as the one in South Australia, you would only be covered if a business was without power for more than 48 hours. For example some of the businesses who were without power for seven days, would only be able to claim for five days loss of gross profits. To find out more or precisely what cover your business has in place for power outages, contact us.

## Recent changes to the Workers' Compensation regime

On 8 September, 2016 the Workers' Compensation and Rehabilitation (National Injury Insurance Scheme) Amendment Bill received Royal Assent.

While the Bill enacted a number of changes to the WorkCover regime, the focus of this article relates to the changes that potentially affect third parties that contract with an employing entity, such as host employers and principals.

In short, if a worker brings a common law claim for damages against an employer and the employer makes a claim for contribution or indemnity against a third party for the worker's claim, the third party is unable to rely on any indemnity clauses that might have been written into a contract with the employer to deny the employer's claim. The



effect is that businesses that may have drafted contracts with employing entities in the belief that they have passed on the risk to the employer may find themselves unable to rely on any contractual indemnity clauses when an employer makes a claim against them. It is worth noting though that the effect of the Supreme Court judgment of *Byrne v People Resourcing (Qld) Pty Ltd & Anor* [2014] QSC 269 survived the proposed changes

put forward in the Bill. Consequently, and at odds with the above changes, if a worker makes a claim for damages directly against a third party then the third party can potentially rely on the contractual indemnity clauses in the contract with the employer in its pursuit of a claim for indemnity against the employer.

Finally, the changes will also apply retrospectively to claims made by workers that pre-dated 8 September 2016 and have not settled or been determined in court proceedings prior to this date.

It is recommended that businesses that have these types of indemnity clauses in their contracts review their insurance to ensure there is adequate cover for the risk transferred back by the employer.

## All I Want for Christmas is a liability policy

It wouldn't be in the spirit of Christmas to sue anyone would it? The silly season hopefully refers to our hangovers and bad karaoke rather than the potential of a liability claim with household Christmas displays.

You know the ones, the houses that are lit up like a Christmas tree, and the rest of the Christmas village complete with sleds and reindeers with Santa waving to the passing cars. These have become attractions with literally competitions to be the most electrified household that pulses with a hum. Crowds gather and cars look for somewhere to park and hopefully the household has liability insurance to host this sudden stampede onto their lawn.

So from the insurance perspective, what is your position as the homeowner? This may be further examined by the occupancy if owner occupied, rental property, or even tested these days if occupied as an AIR B'N'B property which is likely over the holiday period,

but that's another article.

The scenario is if someone gets injured or at worst electrocuted. Essentially the property owner or renter should have Public Liability cover and in Christmas lights competitions we have seen this introduction in the terms and conditions of entry. If it's a commercial venture than this should be rated accordingly but most home policies may allow for a charity donation or a total income under a few hundred dollars without defining it as a business, often it's a gold coin admission.

Once a member of the public is onsite, the duty of care aspect comes into play and the person must not be put into any unforeseen risk. If the gutter gives way because electric Santa was too



heavy on the roof and hits someone on the head, then that was unintentional, however negligence would be allocated and a liability claim possible.

If you do hold a display, then perhaps lock the dog up that may get protective of its yard, and be clear if no-one allowed inside which unfortunately may attract theft. Be specific no touching of the displays and to take care whilst onsite.

Hopefully the worst news is the electricity bill rather than an injury.

## Make it a Christmas break – not a break in

With the upcoming festive season fast approaching it's a timely reminder whilst there's much to celebrate, consideration should be also given to your personal and business security and risk management arrangements.

As many of us head off, both locally and overseas, for our Christmas holiday break it's important to maintain an illusion of occupancy and not to highlight that there's no one at either your home or business premises.

There are many tell tale signs for unwelcome guests with some of these being:

- Built up mail delivery
- No lighting systems in use
- Lack of activity



- Signage highlighting office/business closure

Prior to departure it's prudent to arrange:

- Someone to collect or redirect your mail
- Someone to ensure that any security advices are operational and switched on
- Someone to maintain lawns/premises

so that it doesn't have a vacant look

- Increased mobile security patrols
- Ensure that relevant authorities have been advised regarding the timing of your departure and return.

The holidays are a time to be enjoyed and no one wants to return home to the news that your home or business

have been broken into, vandalised or damaged.

Once consideration has been given to the various "risk exposures" and the appropriate measures taken this will ensure not only a welcome holiday but more importantly a non eventful return.

## Exit stage left

Although the baby boomers are increasingly heading towards retirement, a recent survey revealed that less than 20% of the owners of Small and Medium-sized Enterprises (SMEs) have any formal strategy in place to address their exit from the business.

What's particularly surprising about this, is that to be successful in business, planning is essential and consequently owners normally approach this as part of the management of their business. They must ensure that the business has sufficient resources...financial, human and physical.

### So why do business owners have no formal succession plan in place?

Perhaps it's because they're focusing so much on the present and running their business, while also addressing the increasing threats which are apparent in modern business.

### Having a plan is crucial

It is vital that to prepare for the successful transition of your business, whichever



path you choose, a three to five year period is necessary. Having a suitable succession plan will not only enable you to maximise the selling price, but also minimise the tax on the proceeds.

### What are the considerations?

- Do you want the business to continue operating after you leave?
- How key are you to the business?
- What is the current value of the business?
- Do you have children with the desire and capacity to take over?
- Are you looking for a gradual or immediate exit?

- Is the business stable, growing or shrinking?
- What do you plan to do following your exit from the business?

### Getting maximum value

Apart from preparing the business for sale, one of the most important considerations when selling your business, is tax. Careful planning is required, and if handled correctly, there is the possibility that the business can be sold tax-free. Small Business CGT concessions can substantially reduce, or possibly eliminate, tax payable on the profit from the sale of your business.

### Life after business

One of the most important issues involved in the successful transition from the business, is what you will do to ensure that you remain both physically and mentally active. While it might be the end of your business life, it should be the start of a new and exciting period, where you have both the time and money to enjoy the fruits of all your hard work.

## Workplace culture is the driver for new recruits

Hiring for attitude and culture has become the new hash tag. The shift has gone from hiring someone who has a certain skill set to finding someone who will fit perfectly within your Workplace Culture.

But what is Workplace Culture? Workplace Culture is defined as the character and personality of your organisation. It's what makes your organisation unique and is the sum of its values, traditions, beliefs, interactions, behaviours, and attitudes. An employer who has been hiring for 20 years is used to looking at a position that needs to be filled within their office, thinking about what skills would be needed to do said position and up goes the ad on Seek.

But times are changing and the new generation of workers that are coming through are expanding their horizons, they are making career decisions because they want to "try something new". Gone are the days when someone stays in a role for 10+ years because they just want

something solid. The empowerment that is given to the younger generation to dream big and achieve is strong and influential.

What does this mean for business owners? Less experienced candidates applying but more candidates who are hungry to learn new skills and experience something new. This means a business owner who once in an interview would have had a check list of skills to go through to ensure all the relevant criteria was met and then based the decision on hiring them on that list. Now, the first interview is a coffee. An informal chat just to see what you are like as a person, how you converse, how you present yourself and most importantly- would you fit in with the team. Once that chat is out of the way comes the second interview where the obligatory HR questions come out, tell us your strengths and weaknesses etc.

Hiring someone who doesn't necessarily have the skills, but has that positive attitude to learn, that will motivate and



drive the rest of your team because of their enthusiasm is clearly better than hiring someone with bad habits and a bad attitude but has every box you need ticked off from a skills perspective. So look into your Workplace Culture and see who shares your company vision, who wants to move forward with you and ensure the people who you bring on board also have that drive and determination to work with you to move forward. Hiring for culture over skill is a must in this changing world because skills can be taught, attitude can't.



The Civil Aviation safety authority (CASA) have recently relaxed their regulations to reduce the cost and legal requirements around the use of Remotely Piloted Aircraft (drones).

While there are currently more than 700 registered commercial drone operators, with approvals doubling each year, it's thought that the result of this relaxation will lead to even further increases to that growth.

The new regulations mean drones may be used in commercial operations without the operator requiring a Remote Operators Certificate or Controllers Certificate, making them much more accessible.

Drones are proving to be increasingly useful as people find more ways to use them. Uses include:

- Roofing contractors carrying out roof inspections
- Real estate agents for aerial images
- Property developers showing prospec-

tive views of various multi-level units.

- The internal inspection of badly damaged or dangerous buildings

While the CASA changes allow greater accessibility and usage of drones, there are also significant risks associated with their use, in particular in relation to liability for injury or damage, arising out of their use.

The insurance industry has been slow to adapt to the growing popularity in the use of drones for both commercial and recreational usage, but there are some specific products, which have been developed to cater for this growing trend.

Due to the potential for causing damage or injury, it will still be valuable to undertake specific training, and for complete information surrounding these changes, make sure you visit the CASA website.

If you are interested to know more about insurance relating to drone use, talk to us to learn more.

Ask your CQIB broker about...

### Commercial and Retail Insurance

- Business Property
- Business Interruption incl Loss of Rent
- Liability
- Burglary and Money
- Glass Breakage
- Machinery Breakdown
- Computer
- Goods in Transit
- Tax Audit
- Motor
- Contract Works
- Commercial Strata

### Liability

- Public and Products Liability
- Professional Indemnity
- Management Liability
- Directors and Officers
- Employment Practices Liability
- Statutory Liability
- Cyber Risk

### Premium Funding

### Private and Domestic Insurance

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

### Life, Disability and Partnership

- Life/Accident and Illness
- Term Life
- Long Term Disability/Income Protection
- Key Man
- Superannuation

The CQIB represents over 57 Queensland firms employing nearly 400 staff and placing in excess of \$500,000,000 in annual premiums. The CQIB charter is to maintain the level of professionalism of its members by the sharing of knowledge, information and ideas.

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## Wisewords

“You can't use up  
creativity.

The more you  
use, the more you  
have.”

— Maya Angelou

“If opportunity  
doesn't knock,  
build a door.”  
- Milton Berle

“Losers quit when  
they fail.  
Winners fail until they  
succeed”  
- Robert Kiyosaki