



# Brokerwise™

Brought to you by: **Fitton Insurance (Brokers) Australia Pty Ltd**

## It's not unusual...

### NOT FOR LLOYD'S

How many elephants can you fit in a jumbo jet? Would you believe ten! That was the very important passenger count in a shipment of (live)stock insured in 2004 by Lloyd's of London.



Lloyd's made its name by specialising in insuring the unusual, weird and wonderful so it came as no surprise to be asked to cover the 36 hour transatlantic flight of ten elephants. "A mammoth task", said Robert Wells, livestock underwriter at Lloyd's XL syndicate. Thanks to sound risk management and thorough planning, the flight, memorable to at least 10 on board, went without a hitch with cargo delivered safely.

Elephants in transit are just one of many unusual insurance risks taken on by Lloyd's. A two-headed albino rattlesnake was another. Although only covered against restricted perils because an earlier insured snake had died, this one ended badly too when, in an apparent disagreement between the

respective heads, fatal consequences occurred when one head bit the other.

And, perhaps verging on the disgusting, a Lloyd's insured, frozen sculpture melted after builders accidentally disconnected the freezer it was stored in. The work was a life-sized cast of the artist's head made from 9 pints of the artist's blood. The claim submitted was for approximately one million pounds. The cleaning bill cost was not recorded.

An insurance icon since 1688, you can bet there are many more stories of quirky covers in the annals of Lloyd's of London. We'll dig into the archives to bring you more snippets in future editions of Brokerwise. ■

## Cyber crime

### ...WE HAVE A POLICY ON THIS

Computer security may not be a high priority for many businesses but this thinking could have disastrous consequences.

Every day, virtually all companies in Australia handle electronic data containing sensitive information about their clients as well as corporate information about their own company. All are faced with real liabilities if data falls into the wrong hands or enters the public domain accidentally or fraudulently.

Cyber crime has many faces and is the growing scourge of commerce worldwide.

From hackers who seize and hold your data for ransom to denial of service attacks; inadvertent or negligent breaches of client data; websites not being accessible, leading to loss of reputation... the outcomes of a cyber security incident can have a significant impact on the finances and reputation of a business.

In the USA some of the largest companies in the world have lost millions of dollars as the result of cyber crime. In recent months, threats to Australian businesses have come from many directions with hackers shutting down computers and blackmailing companies for the safe return of their data. The Australian Institute of Criminology

(AIC) reports Australian businesses are feeling the pain of cyber crime. The estimated cost to businesses per annum is more than \$600 million and rising.

*Continued* →



Continued →

## No company is immune to Cyber Risks!

Even more concerning is the report highlight that these cyber attacks are not restricted to any industry or size of enterprise. All companies, large or small are targets for cyber criminals.

Using the Internet, email and any business network system exposes you to hacking, fraud, viruses and information misuse. Expensive lawsuits, lost business opportunities and damage to your network and reputation can cost you more than you think.

The reality is that the World Wide Web has no boundaries and as business models evolve through the

use of new technologies, so must traditional insurance programs and risk management practices.

Many businesses operate under the belief that their existing insurance policies are enough to cover their data security and privacy exposures. This is not the case.

Fortunately, Australian insurance companies are at the forefront of making good the damage of cyber threats. And although stopping the hackers and other criminals in their tracks is not within their capability, they are able to provide the next best thing... picking up the financial pieces of damaged businesses following a cyber attack event.

## Cyber attack insurance. What can be covered?

Cyber Risk cover can protect you for claims arising from your use of the Internet, email, intranet, extranet or your website. Cover includes but is not limited to:

- Breach of privacy
- Damage to your network or website
- Transmission of a virus
- Third Party Liability
- Cyber Extortion

Your CQIB broker can provide all the information you need and help you implement the right Cyber Risk protection strategy for your business. ■

## Product recall

### AUSTRALIA'S GROWING RISK?

Product Recall is a class of insurance that is recommended for the majority of importers and manufacturers to cover the risk of losses involved with product contamination, tampering and defects.



Products are not focused solely on food items, as we have seen in the increasing trend to import products from overseas manufacturers of whitegoods, electrical components, clothing and furniture. There is a need to ensure these goods meet Australian Standards and quality

control methods must be ongoing.

A case example may arise in which the initial contract is made with an overseas company after careful review and even as far as personal inspections of factories and the product processes. The product is tested and proven compliant and effective to a high standard. Over time these processes / parts may be compromised by the substitution of inferior quality parts and even a change of factory without knowledge of the Australian distributor. If these are trade products and used in the building industry, strict control methods must be at a continued, sustained level.

In food products, the product contamination can range from an incident such as traces of nuts not disclosed to the consumer, to the discovery of metal fragments or foreign matter found in food. The health risks from this discovery would carry subsequent obligations such as recalling the products with appropriate consumer notice and warnings.

Product tampering, often associated with blackmail or purposeful loss of reputation,

has been highlighted in the media. Recent cases have involved products such as paracetamol and cakes, creating widespread concern in the community.

There is an insurable risk for the financial losses and costs associated with the recall from shelves and the loss of profit, both to the company directly and also indirectly via its customer base. Recovery of costs associated with the recovery of public opinion and rebuild of reputation as well as costly mass marketing campaigns if required, may also be part of the insurable risk.

If you are currently involved in the importing of goods, under Australian legislation you are deemed to be the manufacturer. It is an important detail to disclose to your broker for both the suitability of coverage and correct premium calculation.

Cover for Product Recall or Product Contamination is advised and you are encouraged to talk to your broker about your circumstances. ■



# Hot work

## RISK TO LIFE AND PROPERTY

Hot work is defined as any temporary or permanent operation that produces flames, sparks or heat and includes welding, grinding, thermal/oxygen cutting or other related heat producing processes. The use of these operations outside safe areas is where the real risk arises, especially during maintenance and construction activities, which are the causes of many serious fires in facilities. In some cases, conditions within a facility are so inherently dangerous that hot work cannot be conducted safely. In some situations, companies, employees, or contractors fail to follow proper hot work safety guidelines, or are not aware of the hazards and the steps that are necessary

to mitigate or prevent a hot work fire.

If hot work is undertaken on a regular basis, a dedicated hot work area should be implemented. This area should be free from combustibles and flammables and equipped with suitable fire extinguishers, automatic sprinkler protection or suitable fire detection and prevention equipment.

When temporary hot work is required within the general work place, a hot work permit system should be implemented and applied to both in-house personnel and contractors.

A Responsible Officer, who is appointed by senior management, should control all safe execution of hot work on site.

A trained person not directly involved with the hot work, should also provide

a continuous fire watch during and after the hot work period is completed, for at least one hour. They would be responsible to monitor, detect and extinguish any incipient burning in the work and adjoining work areas to which sparks and heat may spread. As a final check, the area should be monitored for an additional 3 hours and signed off, once it is considered safe.

Where hot work exposures are likely, it is standard practice for all liability insurers to endorse their policy to include Welding and Hot Work Conditions which require compliance to Australian Standard (AS1674.1) Safety in Welding and Allied Processes.

For further information on this topic, contact your CQIB Broker ■

# New anti-bullying laws

## STRONGER, WIDER POWERS TO FWC

On 27 June 2013 the Commonwealth Parliament passed the Fair Work Amendment Bill 2013. From 1 January 2014 the Fair Work Commission now has jurisdiction to deal with bullying complaints of workers, and can make orders for the bullying to stop. Workers will have the right to seek an apology, a transfer or a change of roster. The Fair Work Commission cannot order compensation, impose a fine or order that a sacked worker be reinstated; however breach of orders may lead to penalties of up to \$10,200 for an individual and \$51,000 for a corporation.

The changes do not just apply to employees, they also apply to contractors, labour hire personnel and persons engaged in other workplace arrangements.

The amendments have introduced a new definition of "bullied at work". The

amended legislation now provides that a worker is "bullied at work" if an individual or group of individuals repeatedly behaves unreasonably towards the worker, or a group of workers of which the worker is a member, and that behaviour creates a risk to health and safety.

"Unreasonable behaviour" is not defined in the amended Act, but the *Safe Work Australia Draft Model Code of Practice: Preventing and Responding to Workplace Bullying* defines "unreasonable behaviour" as behaviour that a reasonable person, having regard to the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

Workers or bosses accused of bullying will be required to complete a form defending their actions, but will not be required to answer questions that may be self-incriminating. The employer will also be required to complete a

form responding to the allegations.

Before making an order the Commission must find that there is a risk that the bullying conduct will continue by the same individual or group.

These claims have the potential to be time consuming, costly and also possibly detrimental to the reputation of a business, so in response to these changes all businesses should ensure that they have systems and training in place to manage bullying claims. It is also essential that employers have policies in place dealing with bullying, and ensure their senior staff is trained to effectively manage employees so as to as far as possible avoid or at least minimise claims. Staff should also be trained in what is and what isn't appropriate workplace behaviour.

The new laws apply to all "constitutionally – covered businesses", which includes all registered corporations. ■

# Protect your property

## REGISTER YOUR INTEREST

Do you own any goods that are in someone else's possession?

If you do, you may need to protect your ownership by registering your goods in accordance with the Personal Property Security Act (PPSA).

The PPSA introduces the concept of a 'security interest'. Generally, if you enter into a transaction with another party and secure repayment of money or the performance of an obligation using personal property, you will have a security interest in that personal property. In limited circumstances, just entering into a transaction can automatically give rise to a security interest.

The definition of just what is a security interest is extremely broad. Examples of common transactions in which security interests will arise include:

- (a) Retention of title sales; (e.g. your goods held by someone else for sale);
- (b) Sales of goods on credit;
- (c) Hire purchase agreements;
- (d) Leases / hire of motor vehicles (or other serially numbered goods) for an indefinite term or for longer than 90 days;
- (e) Leases /hire of other plant and equipment for an indefinite term or for longer than 12 months;

(f) Internal leasing and inter-company arrangements; and

(g) Transactions where one party has possession of goods belonging to someone else, such as transactions involving the transport and storage of goods.

Personal property is any type of property other than land, fixtures, water rights or rights, entitlements or authorities granted by a Commonwealth, State or Territory law. Common types of property covered by the PPSA include motor vehicles, trailers, aircraft, stock, equipment and machinery. Because the concept of personal property encompasses so many types of goods, the PPSA and its application (or otherwise) must be considered in all transactions.

Ultimately, if you have a security interest in personal property and you do not follow the required procedure under the PPSA (e.g. entering into a written agreement and registering your security interest on the PPS Register) and the entity you sell, hire or lease to is declared insolvent, you will be an unsecured creditor in that entity's liquidation. Practically, this means that you will be unlikely to recover your goods even though you own the goods.

If you own any goods that are in someone else's possession and you have not yet turned your mind to the PPSA, we recommend you do so or seek professional advice. ■

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 60 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.



For more information visit [www.cqib.org.au](http://www.cqib.org.au)

The articles in Brokerwise are provided as information only. They are not general or insurance broking or legal advice. It is important that you seek advice relevant to your particular circumstance.

# Wise words ON TRUTH

If you tell the truth, you don't have to remember anything.

— Samuel Clemens

"Nothing ruins the truth like stretching it."

— Unknown

"I want everyone to tell me the truth, even if it costs him his job."

— Sam Goldwyn

## Fitton Insurance (Brokers) Australia Pty Ltd

ABN 90 010 987 489 AFSL No. 264671

13 Bowen Street  
(PO Box 1515)  
Toowoomba QLD 4350

Phone: 07 4638 4233

Fax: 07 4638 3369

Email: [reception@fitton.com.au](mailto:reception@fitton.com.au)

Web: [www.fitton.com.au](http://www.fitton.com.au)