

# MSM Loss Management



**Specialists in  
loss management  
and quantum**

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**Autumn 2005 - Issue 4**



## MSM Newsletter

You can now be kept up to date with the latest MSM news, industry views and profiles from your Inbox.

## MSM Newsletter

MSM email newsletter for clients and industry members covering:

### **MSM News:**

Keeping you up to date with MSM's independent services and initiatives

### **Current Industry Issues:**

Across the insurance, risk management, legal and construction industries

### **MSM training:**

Details on MSM training programs and content

### **MSM profile:**

A brief profile of an MSM consultant

## MSM Training Update

MSM in Autumn, 2005 will again be running Business Interruption training for NIBA in Sydney (Greg Sutton), Melbourne (Colin Chinner) and Brisbane (Peter Rink). These sessions will be the "Advanced BI" program and we look forward to catching up with attendees.



**SYDNEY**  
Greg Sutton



**MELBOURNE**  
Colin Chinner



**BRISBANE**  
Peter Rink

## Dual Basis Payroll Update

In the Spring 2004 Edition we described the process of determining labour needs and then assessing the appropriate initial period and remainder period. We recommended that a comprehensive pre-loss analysis should be undertaken in conjunction with an assessment of the optimal indemnity period.

Dual Base Payroll cover was designed many years ago for large companies with a high level of un-skilled labour that could be stood down easily and then re-employed when the demand resumed.

For many business operations those large levels of unskilled labour no longer exist. These processes have become mechanized or more likely computerised over recent years. Often the people now working in the same areas are now considered skilled labour with a significant investment by the Company through many years of training and experience in that company's processes.

In Australia the legislative environment has changed and many firms cannot easily stand down employees but must retrench them with adequate warning and minimum payment levels. Often these staff cannot be re-employed later without affecting the preferential tax benefit that they enjoyed in the retrenchment package. With a greater emphasis on corporate governance companies are assuming more social responsibility these days. Losing key staff can often create a "double whammy" when these people become employed by competitors and are then used to gain an advantage over the very firm that is trying to overcome a catastrophic event!!

There are often social factors that come into play particularly with smaller firms and those located in smaller communities. The reality of stand-downs and retrenchments that sounds easy when looking at premium savings is not so simple when real names and real faces of loyal, long-term employees are considered. However without adequate cover to pay ongoing wages for the shortfall in turnover the business may have no choice but to make the hard decision.

Another common mistake in assessing dual based payroll is to overlook the type and size of the loss. Too often the scenario that is envisaged is a catastrophic loss where the business is shutdown for extended periods. However, most claims are a partial loss but they can still go on for extended periods – many months and sometimes the full indemnity period given the

long lead-times for plant and machinery. For example, a recent factory loss saw damage to two out of five key production machines so they continued to operate but in less than ideal circumstances while attempting to maintain as much turnover as possible. The disruption period went on for almost 7 months and then it took the business another 8 months to get turnover back to pre-loss levels. By maintaining turnover at the maximum level the business needed **every** person during that period and then still had to work overtime also and engage casual labour to meet the lower levels of production. In this case there was no savings in payroll. The impact of these circumstances was that the business became a self-insurer for almost 50% of the wages over the 12 month indemnity period.

Through its makeup of having an initial period followed by the remainder period and then the option to consolidate, dual based payroll cover provides a deal of flexibility during a claim. However the broker and their client need to ensure the cover meets their financial and social responsibilities through careful planning and the understanding of the impact of both a partial and catastrophic loss on the business.

## Does Your Insurance Reflect Your Business Continuity Plan?

Many businesses have gone to the expense of preparing a Business Continuity Plan. Such plans are essential and can be the difference between a business surviving a major interruption and not surviving it.

It may well be a breach of an organisation's corporate governance responsibility not to have such a plan in place. However having developed a Business Continuity Plan which will in most cases detail the operational response to a business interruption many business fail to consider if their insurance will adequately respond.

MSM has found the following aspects of Industrial Risks Insurance and Business Package Insurance to be wanting in a number of instances:

- Sums Insured
- Indemnity Period
- Prevention of Access
- Claims Preparation Fees
- Suppliers Extension
- Customers Extension
- Public Utilities Extension

In many instances material damage and gross profit sums insured have been found to be inadequate after the event. This has implications for the co-insurance provisions and may

well result in a substantial reduction in a claim. Often the gross profit sum insured is based on historical gross profit and fails to consider that cover should be for future loss of gross profit. There can be severe ramifications for a heavily geared business that may not be able to reinstate for a lengthy period of time, especially if the interruption occurs close to the policy due date.

In terms of material damage MSM has seen several cases where the replacement cost of plant and equipment has been grossly underestimated.

Inadequate indemnity periods are a serious issue. This arises where the lead time to replace or repair plant and equipment is underestimated. Specialised machinery cannot be replaced immediately and often has to be purpose manufactured. Approvals to rebuild from local government authorities and environmental licenses can be the subject of lengthy delays.

It is also sometimes overlooked that replacement parts, machinery and replacement stock need to be sourced from overseas and need to be air freighted. Thus consideration needs to be given to expediting expenses.

The cause of an interruption to a business can be indirect. Flooding that may not affect the premises could however stop the shipping of goods to customers, and prevent customers and employees from accessing the business premises. Moreover an incident at the premises of a major customer or supplier could have ramifications for a business. This is especially difficult where a business is reliant on a sole supplier or customer and there are no alternatives.

Failure to consider whether the loss of services from a public utility such as gas or electricity is adequately covered can be devastating for a business. The "Devil" is in the detail. Often the policy will only cover sub-stations adjacent to your premises. Thus if the lack of gas or electricity supply is caused by an incident remote from the premises, insurance may not respond.

An item often grossly underestimated in setting an amount to be insured, is the claims preparation fees cover. In addition, focus should be given to what the Claims Preparation clause states as an indemnity.

This focus is necessary because of the narrowness of some wordings. For example, the application of an excess/deductible to the Business Interruption section may remove recovery of preparation fees for a Material Damage claim unless the clause is sufficiently drafted to include that intention. It is easily overlooked that in a large loss, an Insured requires independent expertise in loss management to put the pieces back together again. An

Insured can feel and be at a disadvantage in dealing with loss adjusters and insurers on claims issues that require technical advice.

Our experience is that in 95% of cases, claims preparation cover exceeds \$50,000. This will adequately allow for a reasonably serious incident causing a substantial interruption to the business which may entail a potentially lengthy engagement of a firm specializing in loss management and claims preparation.

Some brokers are still under the presumption that the loss adjuster will prepare the claim. The loss adjuster's role may include assisting the insured in explanation of procedures or policy terms, but the loss adjuster is the appointed agent of the insurer, reports to, and is paid by the insurer. Therefore his first obligation is to his principal.

All food for thought when next reviewing the adequacy of Business Interruption Insurance.

## Compliance Update – Ivan's Ideas

### **A Less than serious comparison between Parenting and the FSRA**

The Financial Services Reform Act (FSRA) recently celebrated its first birthday of application to all players in our industry. However I am not sure if there was a birthday party and if there was a party, whether anyone turned up!



The FSRA, with its heritage built out of the maternal loins of consumerism and with the paternal imprint of our beloved politicians and finally delivered by the ASIC Obstetrics department, should be a beautiful bouncing one year old baby, loved by all.

However in our travels many describe the baby as unwanted, ugly, overly demanding and a time waster. What is more it has been keeping them awake at night! (not to mention the cost!).

All of the features mentioned above may be true to a greater or lesser extent, however the stark reality we all need to face up to is that the baby is alive and well, we have a requirement to live with it, and it is not likely to leave home anytime soon.

Therefore we would like to give you a few lighthearted suggestions on how to live with your baby. These are excerpts from a clear and concise book called 199 Policy Statements on Family, Siblings, Relations, and Adolescents.

- 146 Monitor the babies learning progress, set plans and record achievements, -the baby photo album should be full already.
- 164 Check that your baby, is smiling as well as looking, compliant on a regular basis. Remember perception is reality! It is much harder to get anyone to babysit an infant that even appears to be below par let alone one that actually is not meeting standards. Talking about babysitters, make sure you check them out, you never know who might have a police record, think of all those horror babysitter movies.
- 165 Better not to whinge about parenthood, after all you applied to have the baby. If it makes you feel better, write your complaints down.
- 166 Start planning now for the baby's financial future. Put a little money aside each week, not forgetting the impact of GST, income tax, super, education costs and numerous other costs on the baby's needs.
- 168 Make sure the toddler does not injure itself, review hazards around the house, write down the emergency phone numbers and always have the stroller nearby.
- 175 Make sure you openly and constantly communicate with the baby. It does not matter if you have to constantly repeat yourself or if the baby is not interested in what you have to say – this is a normal thing until the baby is old enough to leave home.
- 181 Remove any toys or playthings that might conflict with the little one's long term goal of being an insurance broker, if you cannot remove the toys (Such as those given to you by the rich insurers/in-laws) at least put them at a safe distance so the baby cannot touch them but only longingly look at them.

If you have been able to relate to some or all of the above suggestions you are on your way to a long and happy parenthood. If you did not understand a word of the above we would suggest an immediate call to the baby's doctor – **MSM Compliance Services**.

## MSM CONSULTANT PROFILE

### John Horder – Sydney

Managing a portfolio of clients, John has been responsible for preparation and management of business interruption claims and product liability claims and expert reports in litigation matters across a broad range of industries. He was directly involved in the management and overall coordination of the Sydney Water Class Action, Australia's first class action litigation case. This has involved management of 12,000 registrations, and 2000 business and personal claims.



John has formal qualifications in law and accounting with considerable practical experience in the general insurance industry, general management, and consulting roles. He has strong technical legal and accounting skills, high level communication, interpersonal and management skills, as well as bringing commercial realism to assignments.

He has held positions from Financial Controller to Chief Executive and has extensive executive level corporate management experience in large complex organisations. He has been responsible for implementation and management of operational organisations, business continuity plans, project management of world's largest emergency response computer aided dispatch system, management of infrastructure programs.

He is President of NSW State Branch of CPA Australia, Chairman of CPA Australia, NSW Division, Membership Committee; a member of the Joint Legislation Review Committee of CPA Australia and the Institute of Chartered Accountants and Chairman of Annual Report Awards Australia Inc.

## MSM CORPORATE PROFILE

MSM Loss Management (MSM) is Australia's premier provider of business interruption, litigation support, claims management and related support services.

Services include preparation of economic and consequential loss claims, business valuations, policy reviews business continuity planning. The practice has focused on business interruption, economic loss consulting, forensic accounting and litigation support as well as providing training and compliance services. The MSM team has gained technical and practical

experience through years of involvement in thousands of claims and litigated matters, across a broad range of industries, including mining, construction, metals and energy, manufacturing and transport. MSM has a multi-disciplined, professional team which includes chartered accountants and CPAs with experience across a diverse range of industries and organisations.

## Claim Services

- Management, preparation, review and settlement of material damage, business interruption, advanced loss of profits, product liability and related claims requiring the establishment of quantum.
- Advice on business interruption cover including rights and obligations, policy response and a review of the adequacy of the sums insured.
- Timely advice, allowing informed decisions on critical issues such as recovery actions and options affecting the treatment of payroll.
- Claims management.
- Identification and quantification of economic losses.

## Pre-Loss Consulting Services

The pre-loss consulting services include:

- Reviewing the adequacy of declared values, limits, sub-limits and indemnity periods.
- Establishing pre-loss procedures.
- Business continuity planning.

## Litigation Support

MSM undertakes assignments on behalf of major law firms, acts as expert witnesses, and provides expert opinion and advice in a broad range of matters across a variety of industries.

For more on MSM's services, visit our website at [www.msmlm.biz](http://www.msmlm.biz)

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### Correspondents in New Zealand, Asia, USA, UK and Europe

**Expert advice on** Business Interruption ▪ Claim Preparation ▪ Economic Loss ▪ Litigation Support  
Forensic Accounting ▪ Business Continuity Planning ▪ Compliance ▪ Third Party Administration ▪ Training  
and related areas to Insurance Brokers ▪ Risk Managers ▪ Solicitors ▪ Accountants and our respective  
clients.

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