



INSIDE THIS EDITION

- » Storm surge - are you covered?
- » Small businesses to be protected under new legislation
- » Fire protection for your servers
- » Scam defences
- » Coverage for unoccupied buildings
- » Renovation Risks
- » Pokemon Go's real world consequences

Storm surges leave homeowners suffering

Torrential rain during June left waterfront properties in Sydney's northern beaches teetering on a cliff edge after the force of the sea washed away the land.

Not a lot of people are aware that many insurance companies will reject damage claims caused by "actions of the sea" or a "storm surge". While 93 per cent of new home insurance covers flood...actions of the sea or gradual sea level rise are not considered as flooding.

Many insurance policies do not have a definition for storm surge even though it is listed as an exclusion.

A storm surge is an offshore rise of seawater associated with a low pressure weather system, typically cyclones. The worst impacts occur when the storm surge



arrives on top of a high tide. When this happens, seawater can reach areas that might otherwise have been safe. On top of this are pounding waves generated by the powerful winds.

While most insurers cover damage caused by tsunamis, which is normally the result of an earthquake, they don't cover damage caused by other actions or movements of the sea. An exception to this could be when damage caused by

storm surge occurs at the same time as the home or contents is damaged by a storm or flood.

"Even with flood cover you might not be safe as houses, if you live next to the ocean," CHOICE spokesman Tom Godfrey said. "If your insurer decides you have been a victim of a 'storm surge' or an 'action of the sea' and not a 'flood', 'storm' or 'storm run-off', things can get a little choppy," he said.

The patchwork of policy coverage means many storm/storm surge victims are likely to find themselves in disputes with their insurers over what exactly happened to their properties and belongings, and when. If you have a property that could be affected by a storm surge, please contact us to discuss.

Unfair Contracts: New legislation to protect small businesses

From 12 November, 2016, protection laws for small businesses will commence, which will essentially have the effect that any term in a standard form contract that is 'unfair' will be void and unenforceable. These laws will apply to standard form contracts where at least one party is a small business and where the upfront price payable is less than \$300,000 or \$1,000,000 if the contract duration is more than 12 months.

A business will be a 'small business' if at the time of entering the contract, it employed fewer than 20 people, although this generally excludes casual staff. The 'upfront price' under a contract is the amount paid under the contract, as disclosed on or before the contract is entered into, and

does not include any amounts that are contingent on the occurrence of a particular event, such as termination and late payment fees.

Broadly, a term of a small business contract is unfair if it:

- causes a significant imbalance in the parties' rights and obligations;
- is not reasonably necessary to protect the legitimate interests of the benefited party;
- causes detriment to the other party.

In order for the term to be unfair there must be all three criteria.

Businesses have until 12 November 2016 to review and amend their standard form contracts in order to comply with the new laws. These changes will also impact existing contracts if the contracts are



renewed or varied after this date. The types of contracts that might apply are Franchise Agreements, Supply Agreements, Finance Contracts, Hire Agreements, Standard Form Leases and Contracts between Principal and Contractor. Small businesses and those doing business with small businesses should seek legal advice to determine whether their standard form contracts might be caught by the new laws.

What happens to server operations in case of a fire?

Technology, it's what makes our world go around and protecting these electronic systems that provide for our technology-driven businesses and lifestyles is essential. Sadly, a large economic loss to a business can happen in seconds. If a fire breaks out in a server room, the way the fire is extinguished can sometimes cause more financial damage than the fire itself.



When a fire is detected by a smoke detector, it will set a fire panel into alarm and it will alert the fire brigade. After the room fills up with smoke an ordinary sprinkler system will then engage and a fine water mist will disseminate over the area. Once the fire brigade arrive, they will use water to extinguish the fire. A combination of water, fire, soot and smoke usually leave electronics unservicable.

Fortunately there is a product on the market called "3M Novec 1230 Fire Protection Fluid". It is a clean extinguishing agent and is electrically non-conductive and will not leave a residue when it evaporates therefore not damaging expensive electrical or mechanical devices.

Rather than having water in the sprinklers in vital areas that must remain going even in the event of a fire such as a data centre, control rooms and telecommunication centres,

using this 'water like' substance, the Novec fluid in a clean agent suppression system will extinguish the fire in seconds, leaving the rest of the server room, dry and undamaged. Eliminating extensive consequential damage to your equipment, walls and floors.

As Novec Fluid is electronically non-conductive, this means you could have a laptop plugged into the wall in a bucket and pour the fluid over the top. You could safely reach into the bucket and pull out the laptop with no fear of an electric shock.

You would never do this with water and you wouldn't be able to keep using any electric equipment once it's been submerged in any liquid! So it pays off to be smarter with your choices for your fire protection because after all, the business data is the biggest asset that a business owner has.

How do you defend against scams?

In the first six months of 2016, Scamwatch has reported Australians have lost over \$48 million to scams. Everyone is a target and with scam artists increasingly getting more and more sophisticated, it's easy to fall prey.

Scamwatch provides a number of tips to help protect you against scams including:

- **Be alert to the fact that scams exist**
Always consider the possibility that uninvited contacts from people or businesses could be a scam.
- **Know who you're dealing with**
Do your research, particularly if you have only met a person online or if you are unsure of the legitimacy of a businesses.
- **Do not open suspicious texts, pop-up windows or emails – delete them**
If unsure, verify the identity of the contact through an independent source such as a phone book or online search.



- **Keep your personal details secure**
Put a lock on your mailbox and shred your bills and other important documents before throwing them out. Keep your passwords and pin numbers in a safe place and be very careful about how much personal information you share on social media sites.
- **Keep your mobile devices and computers secure**
Always use password protection, don't share access with others (including remotely), update security software and back up content. Protect your WiFi network with a password and avoid using public computers or WiFi hotspots to

access online banking.

- **Choose your passwords carefully**
Update your passwords regularly and choose one that would be difficult to others to guess. And don't use the same password for every account you have.
- **Beware of any requests for your details or money**
Never send money or give credit card details, online account details or copies of personal documents to anyone you don't know or trust.
- **Be careful when shopping online**
Beware of offers that seem too good to be true, and always use an online shopping service that you know and trust.

According to Scamwatch research, you are most likely to be approached by a scammer via phone (49%), followed by email (28.4%), text message (5.6%) and social networking (2.4%). Keep up-to-date with the latest scams and find out more tips at www.scamwatch.gov.au

Unoccupied buildings - what you need to know

An unoccupied or vacant home, building or property is perceived as a higher risk.

Insurance policies generally allow for short periods of unoccupancy; however the allowance period varies. It can be up to 60 or 90 days, although not all policies are the same.

One Landlord's policy calls for notification everytime there is a vacancy during a change in tenancy.

What period does your policy allow? If something happens during a period of unoccupancy and you have not advised us to discuss with your insurer/s, there is a risk a claim could be rejected or any claim payment be reduced.

Common information required is:

1. The reason for the unoccupancy?
2. What measures are being undertaken to reduce unoccupancy risks?

3. Has any increased security been installed?

4. How often is the property being checked and by whom. Unoccupied properties are exposed to a range of risks, such as theft, vandalism, squatters and water damage.

To combat the unoccupied problems consider:

1. Having a house-sitter or a friend or family member occupy the premises while you are away. You then do not have an unoccupancy exposure.
2. If you are not located locally to the property arrange for someone who is local to regularly check the property at least weekly removing all signs of unoccupancy e.g. junk mail, free paper etc. and regularly have yard and gardens maintained.
3. Review and upgrade security specifically door and window deadlocks and



quality security screens on all doors and windows including the small bathroom and toilet windows.

4. Fit back to base alarms supplying the name of local contact.

5. Turn off all water taps to all equipment e.g. washing machines, dishwasher, fridges etc.

6. Tell your neighbours giving them your local contact details.

If a premises is unoccupied, it must be declared to your broker so they can address accordingly.

Get coverage before renovating

When any alteration, renovation or upgrade occurs at your commercial property or home it's vital to ensure that you have adequate insurance coverage in place. Depending on your contract and what work is being undertaken, we may have to endorse or arrange alternative or additional coverage.

The majority of insurance policies have policy "sub-limits" of liability in respect of alterations and amendments and it's crucial to ensure that your project has sufficient levels of coverage. Discuss your alterations with us to evaluate if your current coverage requires amendments and/or notification, as failing to advise your existing insurer may result in claims being denied or reduced.

Ensure your contractors have the appropriate insurance policies cur-



rent and in place when undertaking any building renovations or amendments. These could include, but are not limited to Contract Works Insurance; Broadform Liability Insurance; and Marine Insurance & Workcover Insurance.

It's also prudent to ensure that these coverages are in place, and current, prior to entering into any Contract of Works. Always request copies of the contractors "Certificate of Currencies" to ensure the adequacy and currency

of the insurance policies in place and it is wise to have us review these policies so they are able to advise you regarding same.

In some cases, you may request being included, as a "Named Insured" on the contractor's policy in respect of particular contracts.

Depending on the scope of work, there are many policy extensions that should also be considered and we are best placed to advise you on the appropriate coverage to suit your individual needs.

Real world consequences for game players

In a bid to catch them all, players of the augmented reality app, Pokemon Go are exposing themselves to numerous risks.

Pokemon Go uses a smartphone's location tracking, GPS and digital camera overlay and sends users on a Pokemon hunt with digital critters popping up in various locations around the world.

Within a week of the popular app being launched, reports were rolling in of game-related accidents and injuries. In response to the growing number of accidents, Russia's largest life insurance company and bank IC Sberbank Life Insurance, is using the game to connect with a new generation of potential clients, by offering free accident insurance (up to AU\$1050) to players who register their details on a special site. In their quest to catch them all, some Pokemon Go players are breaking the law through trespassing and using the app while driving. But they need to be aware that despite being in an Augmented Reality Game App, if they ignore the law, there are still real world consequences.

Understand Insurance spokesperson Campbell Fuller said breaking the law



may result in insurers fully or partially denying claims.

"The appeal of marauding across the metropolis hunting down mythical manga monsters may not be clear to everyone, but the road rules most certainly should be," he said.

"Handling a phone or other mobile device, such as a tablet or

smart watch, while driving is dangerous and against the law in every state and territory.

"Comprehensive and third-party property motor insurance policies require policyholders to take reasonable steps to ensure the safety of themselves and their vehicles. That includes obeying the law.

"If an accident was caused by a driver who was handling their phone, it may result in an insurance claim being denied, and the driver left to cover the repair costs themselves."

In recent game updates the developers have included disclaimers urging players to be aware of their surroundings, not to trespass while in gameplay and not to drive while playing in order to protect themselves from liability for injuries or losses incurred during gameplay.

Be sure. Before you insure!

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 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

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.

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Wisewords

"Keep your eyes on the stars and your feet on the ground."

— Theodore Roosevelt

"It always seems impossible until it is done."

- Nelson Mandela

"The past cannot be changed. The future is yet in your power."

- Unknown