



# QBE Directors & Officers Liability



### Personal responsibility is increasing

Being a director of a company, big or small, public or private is a huge responsibility. Directors are accountable for the results of the business. They can also be held personally responsible for their actions and omissions as well as for the actions and omissions of the people they rely on.

### An increasingly regulated environment

Today companies operate in an environment of strict regulatory control and increased legal vulnerability. Their directors and officers can be personally sued by customers, creditors, shareholders, employees, competitors and even members of the general public. They can be exposed to damage of reputation and loss of personal assets, in addition to the high expenses that come with litigation. Extensive legal representation may be required long before a court action is filed.

### QBE Directors & Officers Cover (D&O)

QBE's standard D&O Liability Policy helps cover legal defence, settlements and costs/damages awarded against directors and officers in court. The cover either indemnifies individuals personally or, if the company has already indemnified directors, it will reimburse the company.

### Scope of cover

QBE Directors & Officers Cover is designed to protect individuals against D&O legal liability, which they may incur while carrying out their duties as a company director or officer, including:

- Management error & omission caused by negligence
- Lawsuit against directors by the investors, shareholders, creditors, etc. (i.e. civil proceedings)
- Employees bringing action against a supervisor / manager

### Product features - Automatic

### Examples of what they can mean for you

Advancement of defence costs	Your cover meets the legal costs and expenses as they are incurred
Continuous cover	Provides protection for late notified circumstances where your policy has been continuously insured by QBE
Health and safety defence costs	Covers your defence costs in case of an allegation of breaching health and safety legislation
Official investigations and enquiries	Cover for defence costs incurred as you attended an investigation or enquiry conducted by any regulatory authority
Severability and non-imputation	If your insured colleague did not comply with the terms of the policy but you did, you are still covered
Compensation for courts costs (subject to sub-limits)	If you must attend court as a witness in relation with a claim under this policy, you will receive compensation for your costs incurred
Estate and legal representatives / spousal liability	The cover is extended to your estate or your spouse
Innocent non-disclosure	Protects against unintentional non-disclosure as long as we believe that you made a genuine mistake and that it is covered by the policy at the time the mistake took place and the policy is still in force
Pollution legal costs	Covers defence costs in respect of claim related to pollution
Preservation of indemnity	Protects you in case the organisation that must indemnify you is insolvent or bankrupt
Successful defence of criminal prosecution	Covers defence costs in the event of a criminal prosecution in which you are acquitted by a court

### Product features - Optional

### Examples of what they can mean for you

Outside directorship	Protects you while sitting on the board of another entity
Extended reporting period (75% annual premium for 12 months)	With this optional extension you can notify us about a claim made against you during the policy period even after its expiry

### Who may claim against Directors and Officers and why - examples:

Regulatory Authorities	For alleged violation of laws, alleged price fixing
Employees	For unfair dismissal, sexual harassment, discrimination
Shareholders	For failure to maintain adequate insurance, misrepresentation of reports, imprudent loans or investments
Creditors	For continuing to trade whilst the company is insolvent
Competitors	For alleged infringement of copyright or trade mark
Customers	For misrepresentation made in advertising or deceptive trade practices
Liquidators / Receivers	For alleged breaches of duties owed to the company

# Frequently asked questions

## **Will the company automatically pay for liabilities that are incurred by their Directors and Officers?**

When faced with litigation, Directors and Officers may or may not be assisted by their company in defending the action. The decision to provide indemnity to Directors and Officers is often discretionary and in some case, may even be prohibited by the company's Articles of Association or the law of the jurisdiction where the claim is brought. Furthermore, the company may be faced with a situation of bankruptcy or insolvency and do not have the ability to indemnify their Directors and Officers. Worse still, the company may no longer exist!

# Critical examples

## **Scenario 1**

An investor was seeking an investment in the manufacturing industry. After much research and analysis, a small privately owned company was selected as a potential investee. After meeting the board of directors and after completing the due diligence process, it was agreed that the investor would acquire 10% of the company.

Six months later, the company lost its major contract and, with that, the bulk of its profitability. After investigation, it became apparent that the Directors had been advised that it was likely they would lose the contract prior to the investor's purchase of capital and they failed to advise the investor of this. The investor / shareholder sued the directors alleging that they should have advised him of the situation prior to his investment. The matter was settled outside court. The insurance policy covered the settlement amount and legal costs incurred.

## **Scenario 2**

A manufacturing company and its site supervisor were investigated and prosecuted for various breaches of the OH&S Act. It was found that there were a number of breaches at the work place as not all areas could be deemed safe for workers.

The manufacturing company and the site supervisor were individually found liable and fined hefty sums. Whilst the policy is not designed to protect losses incurred by the entity or pay for fines, the site supervisor's legal costs in defending the charge were covered by the Policy.

# Do not delay

In today's fast paced environment, company affairs are under increased scrutiny. As a company director or officer can you afford not to have personal financial protection against liabilities arising while carrying out your duties? QBE Directors & Officers cover helps bring confidence and financial security to corporate decision makers. It is designed to preserve their personal assets and reputations.

This product sheet, including any scenarios, is provided as a guide only to the types of cover available and which may apply to certain claims. It does not take into account matters specific to your needs. QBE will assess each claim in accordance with the terms and conditions of the policy, the level of cover chosen and the particular circumstances giving rise to the claim. For full details of the terms and conditions and levels of cover available, please read our QBE Directors & Officers Liability policy wording, which is available on request from your local QBE office or insurance advisor.

## **QBE Products include:**

**Professional Indemnity**

**Directors and Officers Liability**

**Public & Products Liability**

**Workers' Compensation**

**Industrial Special Risk**

**Motor**

**Marine**

**Medical**

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