



andrew warren associates

SOLICITORS & BARRISTERS

MORTGAGES & FINANCE

## Big risks with OH & S legislation

If you regularly read this column, you would recall my warnings to business people to consider using business structures and asset arrangements which provide protection to their personal assets in case of something going wrong.

One of the biggest risks, and it is now far from theoretical, is with prosecutions for breaches of Occupational Health and Safety legislation. The big problem with these sorts of breaches is that if you are prosecuted, you are exposed to potentially massive fines that you cannot insure against.

To make it clear – if a worker at your premises is injured, you may have Workers Compensation insurance in place to protect you from workers compensation claims. But even if you have this insurance, you can also be prosecuted for an OH & S breach, which is not covered by insurance.

There are many potentially alarming factors about OH & S legislation. It is not confined to people who work for you – visitors to your business premises who may be injured are also covered.

If you design, manufacture, or even supply goods to workplaces and somebody is injured by those goods, potentially years after you last see the goods, you can be held liable under OH & S legislation, even though you may have no direct involvement in the injury at all. Your product liability insurance does not cover you.

OH & S legislation extends beyond just a corporation's breach – directors of the corporation or even people who are just engaged in the management of the corporation can be held personally liable for breaches. Where a director or manager is fined, the corporation is prohibited from indemnifying them.

Even the owners of commercial buildings can be caught by their tenant's breaches of OH&S requirements. This raises frightening consequences for those who invest in commercial property.

The only way to protect yourself against the substantial risks arising from OH&S legislation is to arrange your assets in such a way as to limit your exposure. We can give you fast and accurate advice about the best way to approach this problem and the costs and benefits involved.