

Run-Off Insurance

What is Run-Off Insurance?

- ◆ Various insurance policies are written on a 'claims made' basis. This means that they will only respond to claims which are made against an insured and notified to the insurer during the policy period, irrespective of when the work was performed by the insured. If the policy expires, no additional claims can be made under the policy.
- ◆ There is a potential for claims to be made against an insured after a business is wound up or a project is finished. If a claim is made at a time in the future and there is no insurance policy in place there would be no protection for the insured. This is where a run-off insurance policy can prove to be very valuable.
- ◆ A run-off insurance policy can be purchased prior to cessation of the business or finalisation of a project. It will provide coverage to an insured for future claims made against them which arise from acts, errors or omissions which occurred prior to the inception of the run-off policy. Run-off policies can be purchased on an annual basis or a multi-year basis with one upfront premium payment.

Which Policies?

The following policy types are generally written on a claims made basis and run-off insurance should be considered if ceasing business or finishing a specific project.

- ◆ Professional Indemnity
- ◆ Management Liability
- ◆ Directors' & Officers Liability
- ◆ Association Liability
- ◆ Information Technology Liability

But, there's no company to sue....why do I need it?

- ◆ Individuals can be held liable for their negligent actions as professionals, principals, partners, directors, officers and employees even if a company no longer exists.
- ◆ Obligations agreed to under contracts & deeds signed by the company can survive the life of the company and attach to individuals.
- ◆ Some sale agreements require entities to purchase run-off insurance to cover past liabilities.

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How does run-off work practically?

1999

An insured was awarded a contract for the design works for the redevelopment of local parklands. The design included using a specific type of tree for screening nearby buildings from the parklands.

2001

Trees were planted as part of the redevelopment

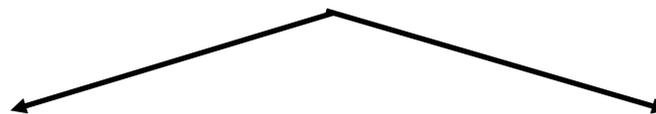
2004—2007

Project was finished and handed over to owners.

Building owners complained the concrete slabs in their buildings were cracking (the Insured is unaware).

2009

Insured ceases trading.



Scenario 1—no run-off

2014

A claim is made against the insured alleging the negligent design caused the cracking in the factory owner's concrete slabs.

Insured notifies insurer who advises no coverage is available as the policy lapsed in 2009.



Scenario 2—run-off

2014

A claim is made against the insured alleging the negligent design caused the cracking in the factory owner's concrete slabs.

Insured notifies insurer who after reviewing the claim grants indemnity to the insured.



N.B. This is a hypothetical example only.