

Common questions about PRplus – Product Recall insurance

Is Product Recall covered under a Public and Products Liability Policy?

The financial impact of a product recall can be highly damaging. In many cases, product recall expenses are excluded under standard Product Liability insurance policies and therefore little, if any, cover is provided for a client's loss.

Liberty Specialty Markets (Liberty) has seen many examples where recall expenses offered by standard Product Liability insurance policies cover less than five percent of a client's losses arising from a recall incident.

Liberty's PRplus insurance policy offers broader protection than the recall expenses cover offered by standard Product Liability insurance policies. In addition, Liberty's PRplus insurance policy can be varied to meet the specific needs of an organisation, including additional cover and limits to match exposures.

The following chart outlines the substantial differences between the coverage provided by a standard Product Liability insurance policy with recall expenses cover and Liberty's PRplus insurance policy.

	Liberty PRplus	Standard Product Liability
Defect	✓	✓
Malicious product tampering	✓	✗
Government recall	✓	?
Recall costs	✓	✓
Retailer & customer recall costs	✓	✗
Replacement, repair and refund costs	✓	✗
Product guarantee	✓	✗
Extortion costs	✓	✗
Consultant & advisors costs	✓	✗

✓ Coverage provided ✗ Coverage not provided

The actual recall costs typically represent a small proportion of the total costs incurred as a result of a recall incident: the expensive items usually include product replacement and the loss of profits.

The table below sets out the typical split of losses that we see in a recall incident:

	Proportion of total
Recall costs (including advertising, transport and destruction)	5%
Retailers recall costs	31%
Replacement costs	21%
Loss of profit	37%
Rehabilitation expense	6%

What is a typical loss?

Scenario 1

The insured was the supplier of an Easter gift pack product, comprising a chocolate Easter egg and a novelty torch. The product was sold through major retailers, and the insured's turnover was \$9 million. The torches were found to be defective, as they overheat and have caused minor burns to children.

The insured's claim for compensation was as follows:

	\$AUD
Third party recall costs	\$145,000
Recall costs	\$23,500
Testify costs	\$900
Total claim	\$169,400

Scenario 2

The insured was a manufacturer and distributor of hot water systems with an estimated turnover of \$99 million. An issue with the gas ignition switch, which allowed gas to be pumped through the burner without the gas been ignited, resulted in a product recall.

The insured's claim for compensation was as follows:

	\$AUD
Recall costs	\$50,000
Repair costs (\$200 x 3,000 units)	\$600,000
Total claim	\$650,000

Scenario 3

The insured recalled heaters manufactured in China due to a substitution of components which caused a fire hazard. The insured's turnover was \$24 million.

The insured's claim for compensation was as follows:

	\$AUD
Advertising	\$40,000
Recall costs	\$30,000
Replacement costs	\$230,000
Total claim	\$300,000



What type of products are involved?

Literally all products will have some type of product recall exposure. Examples of recent recalls include:

- ▶ Children's five-piece table set - recalled as the melamine fork in the set can break when force is applied to the tines
- ▶ Radiant heater - recalled due to the risk of fire and electrical shock
- ▶ Top loader washing machine - recalled as it may pose a fire hazard
- ▶ Children's jackets - recalled as the dyes and colourants used during the manufacture may be hazardous
- ▶ Outdoor bean bag covers - recalled as the seam of the bean bag may split, causing polystyrene beans to escape and potentially cause a choking hazard
- ▶ Electric chainsaw - recalled due to the risk of electrocution
- ▶ Capsule coffee machine - recalled due to the risk of electrical shock
- ▶ DC isolator switch for solar energy installations - recalled as it may overheat, causing a fire hazard

What responsibilities does the Australian Consumer Law impose on clients?

Under the Australian Consumer Law (ACL), importers of goods must guarantee that products are of acceptable quality if the manufacturer of the goods does not have a place of business in Australia.

Goods are of acceptable quality if they are:

- ▶ Fit for all the purposes for which goods of that kind are commonly supplied
- ▶ Acceptable in appearance and finish
- ▶ Free from defects
- ▶ Safe
- ▶ Durable

The ACL introduced legislation in 2010 relating to consumer products safety and, in particular, a mandatory reporting regime that requires importers, suppliers, wholesalers and retailers to notify the Commonwealth Minister within two days of becoming aware that a consumer good or product-related service they supplied has caused, or may have caused, death, serious injury or serious illness.

A serious injury or illness is an acute physical injury or illness requiring treatment by, or under the supervision of, a qualified doctor or nurse, whether or not provided in a hospital or clinic, or in a similar place.

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