

Effective Date: 01/05/2022

Zurich Barristers Professional Indemnity

PRODUCT UPDATE SUMMARY

We would like to advise you of the following updates which apply to your Policy from your renewal date. These updates include changes following the enactment of the Consumer Insurance Contracts Act 2019.

This document should be read in conjunction with your Policy Booklet. For a copy of the updated Policy Booklet, please contact your Broker. Please check your Policy Booklet carefully as it sets out certain exclusions from the cover provided under your Policy.

Summary of Changes:

Section: "The Contract of Insurance"

The wording under the above section has been replaced. Please see updated policy wording below:

The policy, schedule and any endorsements should be read as if they were one document. The policy is a legal contract between the Insurer and the Insured (as hereinafter defined).

The Insurer will insure the Insured under those sections shown in the schedule during any Period of Insurance for which the Insurer have accepted the Insured's premium provided all the terms and conditions of the policy are kept.

Other than where expressly provided in this policy, compliance with all the terms provisions conditions and endorsements of the Policy shall be a condition precedent to the Insured's right to recover under this policy. For your own protection the Insured is recommended to read your policy and all its Conditions to ensure that it is in accordance with the Insured's intentions. The Insurer would draw the Insured's attention specifically to the Exclusions section of the policy.

The Insurer has agreed to provide policy cover, and have calculated the applicable premium, based on information provided by the Insured or on the Insured's behalf including but not limited to:

- information provided in any Proposal (as hereinafter defined), or otherwise in response to specific questions asked by the Insurer;
- information provided and recorded in any Statement of Facts issued to the Insured;
- any declarations made by the Insured or on the Insured's behalf.

Zurich Insurance plc
Registered Office: Zurich House, Ballsbridge Park, Dublin 4.

This is a legal document and should be kept in a safe place.

If these documents do not meet your needs please return all documents to us or your broker or agent.

Section: "1 - Definitions"

The wording under the above section has been extended to include a new definition as follows:

2. Computer System means

Computer hardware and software and the electronic data stored thereon including associated input and output devices, data storage devices, networking equipment, components, firmware and electronic back up facilities including systems available through the internet, intranets, extranets or virtual private networks. Computer System also means any of the foregoing that are part of an Industrial Control System.

Section: "1 - Definitions"

The wording under the above section has been extended to include a new definition as follows:

3. Continuing Restrictive Condition

Any condition in this policy, however expressed, that purports to require the Insured to do, or not to do, a particular act or acts, or requires the Insured to act, or not to act, in a particular manner (and any condition the effect of which is that a given set of circumstances is required to exist or to be maintained or not to exist shall be taken as falling within this definition).

Section: "1 - Definitions"

The wording under the above section has been extended to include a new definition as follows:

4. Data Protection Law means

Any applicable data protection and privacy legislation or regulations in any country, province, state, territory or jurisdiction which govern the use, confidentiality, integrity, security and protection of personal data or any guidance or codes of practice relating to personal data issued by any data protection regulator or authority from time to time (all as amended, updated or re-enacted from time to time).

Section: "1 - Definitions"

The wording under the above section has been extended to include a new definition as follows:

7. Electronic Data means

Electronic Data means information stored or transmitted in digital format. Electronic Data does not include software or digital currency and/or cryptographic key material providing access to digital currency systems.

Section: "1 - Definitions"

The wording under the above section has been extended to include a new definition as follows:

8. Security Event means

- (a) any unauthorised, corrupting or harmful software, code or program specifically designed to erase or corrupt Electronic Data, or damage or disrupt any network or Computer System or circumvent any security product or service including but not limited to computer viruses, Trojan horses, worms and logic bombs.
- (b) unauthorised access to or use of a Computer System, other equipment or component or system or item which processes, stores, transmits, retrieves or receives data
- (c) any actions or instructions constructed or generated with the ability to damage, interfere with or otherwise affect the availability of networks, network services, network connectivity or information systems including but not limited to the generation of excess network traffic into network addresses, the exploitation of system or network weaknesses and the generation of excess or non-genuine traffic between and amongst networks.

Section: "Exclusions"

The wording under section "Exclusions" has been extended to include a new exclusion as follows:

4. Cyber and Data Protection Law Exclusion

For the avoidance of doubt, save as expressly provided in this exclusion, or by other restrictions in this policy specifically relating to the use of a Computer System, no cover otherwise provided under this contract will be restricted solely due to the use of a Computer System.

- (i) This policy does not cover any Claim, loss, damage, consequential loss, liability, costs and expenses, fines, penalties, mitigation costs or any other amount directly caused by, directly resulting from or directly arising out of:
 - (a) a Security Event;
 - (b) any partial or total unavailability or failure of any Computer System

Provided the Computer System is owned or controlled by the Insured or any other party acting on the Insured's behalf.

- (ii) This policy does not cover any Claim, loss, damage, consequential loss, liability, costs and expenses, fines, penalties, mitigation costs or any other amount directly or indirectly caused by, directly or indirectly resulting from or directly or indirectly arising out of:
 - (a) a power failure but only where such power failure impacts a Computer System owned or controlled by the Insured or any other party acting on the Insured's behalf;
 - (b) any failure or interruption of service provided to the Insured or any other party acting on the Insured's behalf by an internet service provider, telecommunications provider or cloud provider but not including the hosting of hardware and software owned by the Insured
- (iii) This policy does not cover any Claim, loss, damage, consequential loss, liability, cost and expenses, fines, penalties, mitigation costs or any other amount directly or indirectly caused by, or directly or indirectly resulting in a breach of Data Protection Law by the Insured or any other party acting on the Insured's behalf.

Any cover provided under this policy for costs of reconstituting or recovering lost or damaged documents owned or controlled by the Insured or any other party acting on the Insured's behalf will not apply to Electronic Data.

Part (i) of this exclusion does not apply to any Claim caused by, resulting from or arising out of a Security Event which arises out of a breach of professional duty due to any negligent act, error or omission committed or alleged to have been committed by the Insured in connection with the conduct of the Insured Practice.

Section: "Exclusions"

The wording under section "Exclusions" has been extended to include a new exclusion as follows:

13. Sanctions

Nor will the Insurer make any payment or provide any service or benefit to the Insured or any other party to the extent that such cover, payment, service or benefit would violate any applicable trade or economic sanctions law or regulation.

Section: "Conditions"

The wording under section "Conditions" has been extended to include a new condition as follows:

1. Alteration of Risk

The Insured must tell the Insurer immediately of any changes to the following provided by the Insured to the Insurer prior to the commencement or renewal of this policy:

- (a) the information provided in any proposal form or otherwise in response to specific questions asked the Insurer;
- (b) the information provided and recorded in any Statement of Fact issued to the Insured;
- (c) the declarations made by the Insured or on the Insured's behalf.

When the Insured notifies the Insurer about a change as above, or if the Insured otherwise become aware of any such change, as referenced above, the Insurer may reassess the premium chargeable and policy cover more generally.

The Insurer may refuse a Claim made by the Insured where there has been a change in the subject matter of the policy which results in a new risk which the Insurer did not agree to cover and which was beyond the Insurer's and the Insured's reasonable contemplation when the policy was entered into. Failure to disclose any such change may result in difficulty obtaining insurance in the future.

Section: "Conditions"

The wording under section "Conditions", sub section "2. Court Attendance Costs" section "Claims notification" and "Conduct of Claims, supporting Documentation and Admissions" has been replaced. Please see the updated policy wording below:

2. Claims Procedures

- (a) The **Insured's** Responsibilities

It is agreed that:

- (i) on the happening of any circumstance which could reasonably be expected to give rise to a Claim or on receiving verbal or written notice of any Claim the Insured will:
 - 1) as soon as reasonably possible give notice to the Insurer in writing regardless of excess; and
 - 2) as soon as reasonably possible forward to the Insurer any notice of prosecution, inquest or fatal inquiry and every letter, Claim, writ or summons issued against the Insured; and
 - 3) at the Insured's own expense and as soon as reasonably possible supply full details of the Claim in writing to the Insurer together with any evidence and information that may be reasonably required by the Insurer for the purpose of investigating or verifying the Claim (including by responding to reasonable requests for information in an honest and reasonably careful manner.)

- 4) as soon as reasonably possible consult with the Insurer to agree actions the Insured will take to minimise the loss or damage and to avoid interruption or interference with the business and to prevent further loss or damage
 - (ii) no settlement, admission of liability, payment or promise of payment will be made to a third party without the Insurer's written consent.
 - (iii) following liability or loss arising out of any criminal or fraudulent act, error or omission if the Insurer so request the Insured will take all reasonable steps to effect recovery from any person committing or condoning or knowingly participating in such criminal or fraudulent act or omission or from their personal representatives
- (b) The Insurer's Rights:
- We will:
- (i) be entitled to take over the defence or settlement including the appointment of legal counsel for any Claim made against the Insured or any person entitled to indemnity under this policy and the Insured will give all assistance as may be reasonably required by the Insurer; and
 - (ii) have the right to make the final determination in relation to coverage or handling of the whole or part of any Claim, however, the Insurer will engage with the Insured during the Insurer's investigation of the Claim and give the Insured the opportunity to submit to the Insurer any relevant evidence which could inform the Insurer's determination as regards the Claim; and
 - (iii) subject to Condition no. 8 of this policy, be entitled to take the benefit of any of the Insured's rights against any other party before or after the Insured has received indemnification under this policy, and the Insured will give all assistance as may be reasonably required by the Insurer; and
 - (iv) treat any circumstances which might give rise to a Claim notified during the period of insurance which subsequently gives rise to a Claim after the expiry date as a Claim first made during the period of insurance
 - (v) Notwithstanding the foregoing, neither the Insured nor the Insurer shall be required to contest any legal proceedings unless a Senior Counsel (to be mutually agreed upon by the Insured and the Insurer) has advised that such proceedings should be contested. For the avoidance of doubt, the Insurer shall retain full control of these proceedings and have full discretion in the conduct of these proceedings and in the decision to subsequently settle or continue to contest any Claim.

Section: "Conditions"

The wording under section "Conditions" has been extended to include a new condition as follows

5. Fraudulent Claims

If a Claim contains information that is false or misleading in any material respect and the Insured either know that it is false or misleading or consciously disregards whether it is false or misleading, or a Claim is otherwise fraudulent in any respect, (Fraudulent Claim) the Insurer shall be entitled to:

- (a) refuse to pay the Claim; and
- (b) terminate the Policy by written notice in which case cover under the Policy shall be treated as having terminated with effect from the date on which the Fraudulent Claim was submitted.

In such circumstances of termination the Insurer shall refuse all liability to the Insured under the Policy in respect of any Claim made after the date of submission of the Fraudulent Claim (but not in respect of any Claim(s) made before submission of the Fraudulent Claim) and the Insurer need not return any of the premiums paid under the Policy.

Section: "Conditions"

The wording under section "Conditions" has been extended to include a new condition as follows:

6. Duty to comply with Policy Conditions

- (a) The Insured must comply with the terms, limitations, Exclusions, Conditions and Endorsements of this policy so far as they relate to anything to be done or complied with by the Insured, to include the Insured cooperating with the Insurer in the investigation of insured events, including by responding to reasonable requests for information in an honest and reasonably careful manner.
- (b) Other than where expressly provided in this policy, the Insured's compliance with the terms, limitations, Exclusions, Conditions and Endorsements of this policy shall be a condition precedent to any liability on the Insurer's behalf to make any payment under the policy.
- (c) Breach of any notification-related term or Condition will entitle the Insurer to refuse payment of a Claim where the Insurer were prejudiced by the breach of the notification-related term or Condition in question.

Section: "Conditions"

The wording under section "Conditions" has been extended to include a new condition as follows:

7. Effect of Continuing Restrictive Conditions

In this policy, any term that imposes a Continuing Restrictive Condition, including one that is intended to reduce the risk of a particular type of loss, or reduce the risk of loss occurring at a particular time or in a particular location, shall be treated as a suspensive condition. This means that if:

- (a) the Insured breach any such term; and
- (b) during the period of breach, the Insured suffer a relevant loss; and
- (c) such breach increased, in the circumstances concerned, the risk of the loss suffered by the Insured,

The Insurer will have no liability for the loss.

Section: "Conditions"

The wording under the section "Conditions" has been extended to include a new condition as follows:

8. Subrogation

This clause applies where the Insurer have the right to be subrogated to the Insurer's rights against some other person but the Insured has not exercised those rights and might reasonably be expected not to exercise those rights because the Insured and the other person are members of the same family (to be construed in accordance with the Employment Equality Act 1998), or are cohabitants (to be construed in accordance with the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010).

Where in the above circumstances the other person is not insured in respect of their liability to the Insured, the Insurer do not have the right to be subrogated to the Insured's rights against that other person

Where the other person is so insured, the Insurer may not recover from the other person an amount greater than the amount that that person may recover under their insurance policy.

This clause does not apply where the conduct of the other person that gave rise to the loss involved serious or wilful misconduct.

If the Insured are an employer, the Insurer will not exercise the Insurer's right of subrogation against an Employee except where the loss was caused by an Employee intentionally or recklessly and with knowledge that the loss would probably result.

Section: "Conditions"

The wording under the section "Conditions" has been extended to include a new condition as follows:

1. (1) Pre-Contractual Representations

The Insured acknowledge and accept the following:

- (a) The Insured has a legal duty prior to entering into the policy and/or prior to the renewal of this policy to provide responses to questions the Insurer ask in relation to the risk(s) to be insured.
- (b) a matter about which the Insurer ask a specific question is material to the risk by the Insurer or the calculation of the premium by the Insurer, or both.
- (c) the Insured have a legal duty to answer all questions asked by the Insurer honestly and with reasonable care.

(2) Remedies for Misrepresentation

- (a) The term “negligent misrepresentation” means a representation made without reasonable care but which was not fraudulent. Where a Claim is made under the policy but an answer which was provided, or information which was volunteered, the Insured or on the Insured’s behalf involves a negligent misrepresentation, the remedy available to the Insurer shall reflect what the Insurer would have done had the Insurer been aware of the full facts and shall be based on a compensatory and proportionate test, as follows:
 - (i) if the Insurer would not have entered into the policy on any terms, the Insurer may avoid the policy from inception or renewal (as the case may be) and refuse all Claims, but shall return the premium paid;
 - (ii) if the Insurer would have entered into the policy, but on different terms, the policy is to be treated as if it had been entered into on those different terms if the Insurer so require;
 - (iii) if the Insurer would have entered into the policy, but would have charged a higher premium, the Insurer may reduce proportionately the amount to be paid on the relevant Claim.
- (b) Where an answer which was provided, or information which was volunteered, involves a negligent misrepresentation which is identified at a time prior to there being any Claim under the policy, the Insurer may either:
 - (i) give the Insured notice that in the event of a Claim the Insurer will exercise the remedies in paragraphs (a)(i)-(iii) above as appropriate; and/or
 - (ii) terminate the policy by giving reasonable notice.
- (c) Where a Claim is made under the policy but an answer which was provided, or information which was volunteered, by the Insured involves a fraudulent misrepresentation, or where the Insured’s conduct (relative to the policy or the steps leading to its formation) involves fraud of any other kind, the Insurer shall be entitled to avoid the policy from the date of commencement or renewal (as the case may be) without return of premium.
- (d) Nothing in this clause shall permit the Insurer to avoid the policy based on an innocent misrepresentation provided that the Insured have discharged the Insured’s duty to answer questions asked by the Insurer honestly and with reasonable care. In this clause, the term “innocent misrepresentation” means a misrepresentation which was neither a negligent misrepresentation nor a fraudulent misrepresentation.

Section: “Special Benefits”

The wording under the section “Special Benefits” has been amended. Please see the updated policy wording below:

The Insurer shall not avoid any Claim on the grounds of the breach of 2. (a) (i) 1 or Condition 2. (a) (i) 2 or Condition 2. (a) (ii) of this policy subject to the following:

- (a) where the Insured should have notified during a preceding period of insurance either a Claim made against the Insured or circumstances which could give rise to such a Claim and the indemnity or cover to which the Insured would have been entitled was in any way more restricted than that provided at the date of notification, the Insurer shall be liable only to the extent applicable during such preceding period of insurance.
- (b) where the Insured has prejudiced the handling or settlement of any Claim the amount payable in respect of such Claim (including costs and expenses) shall be reduced to such sum as in the Insurer’s opinion would have been payable in the absence of such prejudice.