



SPECIALIST
PROFESSIONAL
INDEMNITY
INSURANCE

ITIC Rules 2021 Amendments explanation

Specialist professional indemnity insurance
for transport professionals everywhere

ITIC
IS MANAGED
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2021 Rule Changes	Explanatory Notes
PART 2 PROFESSIONAL INDEMNITY INSURANCES	PART 2 PROFESSIONAL INDEMNITY INSURANCES
Rule 2 – Professional indemnity insurance	Rule 2 – Professional indemnity insurance
2.1 (d) Loss of or damage to documents or electronic data sustained while in your custody or in the custody of any other person for who you are responsible <u>but excluding claims arising from cyber attack (see Rule 13.36)</u>	2.1 (d) <i>The additional wording is to give effect to the proposed new exclusion of Rule 13.36 (see below)</i>
2.3.3 Costs part of claim The costs insured under this Rule are included in the amount of the claim payable for the purposes of the applicable deductible and/or limit of liability.	2.3.3 Costs part of claim <i>This new provision has been added simply to provide greater clarity and does not alter the existing cover. A corresponding change is made by adding the same text at Rule 8.1 (j)</i>
Rule 3 – Exclusions and qualifications applicable to Rule 2	Rule 3 – Exclusions and qualifications applicable to Rule 2
3.4 Operation loss Insurance under this Rule 2 is for third party liabilities only. You are not insured for your own losses	3.4 Operation loss <i>Correction of a typographical error</i>
3.5 Worldwide cover Unless stated in your certificate of entry, insurance under Rule 2 is for liabilities incurred worldwide.	3.5 Worldwide cover <i>This provision has been added simply to provide greater clarity and does not alter the existing cover.</i>

PART 3 CARGO AND RELATED LIABILITIES	PART 3 CARGO AND RELATED LIABILITIES
Rule 8 – Costs insured	Rule 8 – Costs insured
<p>8.1 Costs</p> <p>In respect of liability insured under Rule 4,5,6 and 7 if damages claimed from you exceed or are likely to exceed the applicable deductible, you are insured for the following associated costs:</p> <p>(j) <u>The costs insured under this rule are included in the amount of the claim payable for the purposes of the applicable deductible and/or limit of liability.</u></p>	<p>8.1 Costs</p> <p><i>See note on Rule 2.3.3</i></p>

PART 5 GENERAL CONDITIONS AND EXCLUSIONS	PART 5 GENERAL CONDITIONS AND EXCLUSIONS
Rule 13 – General conditions and exclusions	Rule 13 – General conditions and exclusions
<p>13.5 Products liability and defective workmanship</p> <p>13.5.1 You are not insured for any risk arising directly or indirectly from defects in goods or products sold, supplied or distributed by you or on your behalf unless the defects directly arise from your insured services.</p> <p>13.5.2 <u>You are not insured for any risk arising from the manufacture, construction, alteration, repair, servicing, installation, maintenance or treating of any goods by you or on your behalf even though these activities might be performed in conjunction with the services specified in your certificate of entry as being insured services.</u></p>	<p>13.5 Products liability and defective workmanship</p> <p><i>The wording in the proposed 13.5.2 has been reinstated from earlier editions to give greater clarity. It does not reduce the existing cover. ITIC does not insure members for carrying out the listed activities and existing Rule 13.10 Insured and Uninsured services provides that; "If you have a liability arising from multiple activities, of which only some are insured services, you are only insured for that part of the liability that exclusively arises from those insured services".</i></p> <p><i>ITIC does not insure the design risks incurred by members who may, for example, also arrange the installation of the product. It is considered clearer if the exclusion of these activities is stated here.</i></p>
<p>13.21 Indemnities and obligations</p> <p><u>You are insured for the type and amount of damages normally payable for the liability in question.</u></p> <p>You are not insured <u>for the amount of any increase in the damages payable due to the extent that your liability or the damages payable are increased by:</u></p> <ul style="list-style-type: none"> (a) any indemnity given by you except as provided for in Rule 2 (h) (iv); (b) any agreement not to rely on any defence or limitation of liability; (c) any contractual obligation to perform to a higher standard than the duty of care imposed by law. <p><u>Unless the Directors determine that such indemnity, agreement or obligation is on terms and conditions usually applicable for the performance of your insured services (see Rule 1.3) in which case such additional damages are insured.</u></p>	<p>13.21 Indemnities and obligations</p> <p><i>This new wording of the opening paragraph has been added to provide greater clarity and does not alter the existing cover. The reference to indemnity has caused a number of members and prospective members concern. It is common for service agreements to provide that the service provider will indemnify the principal. These clauses, at least theoretically, increase liability and on a strict interpretation the member is not covered for some of their exposure. There was a pre-existing provision in Rule 2 (h) (iv) accepting liability for indemnities given to authorities "in the normal course of business". Port agents, for example, often have to give indemnities to the port authority.</i></p> <p><i>ITIC aims to cover members for performing the insured services on normal contractual terms and the clause applies that concept to indemnities.</i></p>

<p>13.31 Supervision and Control</p> <p>Unless the Directors otherwise decide, your insurance is subject to your satisfying the Directors that the liability did not arise from a failure by you to take reasonable steps to establish proper systems and controls <u>or</u> to exercise proper supervision.</p>	<p>13.31 Supervision and Control</p> <p><i>The word “or” has been inserted to clarify the obligations to “establish proper systems and controls” and to “exercise proper supervision” are separate.</i></p>
<p>13.35 Coronavirus and other pandemics</p> <p>You are not insured for:</p> <ol style="list-style-type: none"> (1) Any loss, damage, liability, cost, or expense directly arising from the transmission or alleged transmission of: <ol style="list-style-type: none"> (a) Coronavirus disease (COVID-19) and/or any mutation or variation thereof; or (b) Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) and/or any mutation or variation thereof ; or (c) H1N1, H5N1 and/or any other strain of the influenza virus and/or any mutation or variation thereof; or (d) Any other infectious illness or disease that the World Health Organisation (WHO) declares a public health emergency and/or pandemic. (2) Any liability, cost or expense to identify, clean up, detoxify, remove, monitor, or test for (a), (b), (c) or (d) above; (3) Any liability for or loss, cost or expense arising out of any loss of revenue, loss of hire, business interruption, loss of market, delay or any indirect financial loss, howsoever described, as a result of any of 1. (a), (b), (c) or (d) above or the fear or the threat thereof. <p>You are insured under <u>Rule 2.1(a)</u> solely for the financial losses of a third party under Rule 2.2 (i) caused by the negligent performance of your insured services in relation to the breach of laws and regulations aimed at preventing or controlling 1) (a), (b), (c) or (d) but not from the actual or alleged transmission thereof;</p>	<p>13.35 Coronavirus and other pandemics</p> <p><i>This is a new clause</i></p> <p><i>The reinsurers have indicated that they wish to exclude risks relating to the Coronavirus pandemic from the cover they provide. The wording in the opposite column gives effect to that exclusion.</i></p>

13.36 Cyber attack

13.36.1 You are not insured for any loss, damage, liability, cost, or expense directly or indirectly arising from the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus, computer process or any other electronic system.

13.36.2 Your insurance shall not be prejudiced by the use or operation of any computer, computer system, computer software programme, computer process or any other electronic system, if such use or operation is not as a means for inflicting harm.

13.36 Cyber attack

This is a new clause

The reinsurers have indicated that they wish to exclude risks relating to cyber attacks from the cover they provide. The wording in the opposite column gives effect to that exclusion.