

Summary of changes to LMA3150A (Occurrence) and LMA3151A (Claims Made) International Liability Insurance policies

This document provides a high-level summary of the main differences between LMA3150A / LMA3151A and the 'B' suffix versions published by the LMA to replace them. Underwriters should familiarize themselves with the updated version of each policy to understand the full extent of the changes. Unless stated otherwise the changes listed apply to both the 'Occurrence' and 'Claims Made' policies.

GENERAL CHANGES

- Table of contents removed as the policy will often be incorporated within an MRC/eMRC.
- References to 'DEDUCTIBLE' replaced with 'EXCESS' to reflect the operation of the policy.

SCHEDULE TO THE POLICY	
Item	Comments
4. LIMITS OF INDEMNITY	<ul style="list-style-type: none"> • Text stating '<i>DEFENCE COSTS will be payable in addition to the Limits of Indemnity except where stated or endorsed to the contrary in this POLICY.</i>' included.
5. EXCESS	<ul style="list-style-type: none"> • Text stating '<i>each and every CLAIM or series of CLAIMS covered by this POLICY arising out of one OCCURRENCE.</i>'
10. CHOICE OF LAW 11. ARBITRATION 12. JURISDICTION	<ul style="list-style-type: none"> • Previous 'POLICY DISPUTES' item separated into 3 fields and default entries included. • Reference to arbitration now included.
13. RETROACTIVE DATE (LMA3151B only)	<ul style="list-style-type: none"> • Section specific retroactive date fields included. Previously no retroactive date applied in respect of the pollution coverage.

NOTICE TO THE INSURED	
Item	Comments
NOTICE TO THE INSURED	<ul style="list-style-type: none"> • Replaces the previous Material Changes General Condition. • Notice included at the front of the policy to signpost the disclosure obligations under the policy and the consequences of failing to comply with them.

LIMITS OF INDEMNITY

Item	Comments
LIMITS OF INDEMNITY	<ul style="list-style-type: none"> Additional paragraph included describing how the policy responds where more than one insured is covered.

EXCESS

Item	Comments
EXCESS	<ul style="list-style-type: none"> References to 'deductible' replaced with 'excess' to reflect the operation of the policy. Text stating '<i>Any EXCESS payable by the INSURED shall not erode the aggregate Limit of Indemnity specified in the Schedule for Section B and Section C (separately for each Section).</i>' included.

NORTH AMERICAN JURISDICTION EXTENSION

Item	Comments
NORTH AMERICAN JURISDICTION EXTENSION	<ul style="list-style-type: none"> New bodily injury definition applicable to this extension only added.

EXTENDED REPORTING PERIOD (LMA3151B only)

Item	Comments
EXTENDED REPORTING PERIOD	<ul style="list-style-type: none"> Sentence excluding application of the Extended Reporting Period to the Pollution section of the policy deleted.

DEFINITIONS

Item	Comments
ADVERTISEMENT	<ul style="list-style-type: none"> Superfluous list of communication means deleted. Now limited to advertisements relating to the insured's goods, products or services.
ADVERTISING INJURY	<ul style="list-style-type: none"> Qualifying text '<i>not otherwise excluded by this POLICY</i>' added to limb d.
BODILY INJURY	<ul style="list-style-type: none"> Definition rewritten - see separate LMA Guidance note on the updated definition(s) of Bodily Injury in LMA3150B / LMA3151B.

DEFINITIONS (Cont.)

Item	Comments
CLAIM	<ul style="list-style-type: none"> Definition now applies to the 'Occurrence' policy and has been rewritten with the previous reference to 'verbal notice' removed. Reference to claimant's costs and civil/arbitration proceedings included.
CLEAN UP COSTS	<ul style="list-style-type: none"> Definition amended in the 'Occurrence' policy following inclusion of the new 'CLAIM' definition.
CLIMATE CHANGE	<ul style="list-style-type: none"> New definition added.
COMMUNICABLE DISEASE	<ul style="list-style-type: none"> New definition added.
COMPUTER SYSTEM	<ul style="list-style-type: none"> Definition amended to provide examples of what a computer system may include. Text qualified to state '<i>... owned or operated by the INSURED or any other party.</i>'.
COURT ATTENDANCE COMPENSATION	<ul style="list-style-type: none"> New definition added.
CYBER ACT	<ul style="list-style-type: none"> New definition created from the Cyber Incident definition of the previous the policy. Reference to criminal acts included reflecting the approach taken on other LMA wordings. (See also comments to CYBER INCIDENT below).
CYBER INCIDENT	<ul style="list-style-type: none"> Limb a. of the previous definition now forms the basis of the text for the new 'CYBER ACT' definition (See comments above). Text '<i>involving access to, processing of, use of or operation of any COMPUTER SYSTEM</i>' now only applies to errors or omission. Definition broadened to encompass '<i>... any partial or total unavailability or failure ...</i>' to access a computer system. Previous reference to 'failure to act', 'accident', 'breach of duty/statutory duty/regulatory duty' removed. Previous text disapplying failure to act, errors or omissions and accidents to the Products Liability cover afforded by the policy removed.
CYBER LOSS	<ul style="list-style-type: none"> This definition, contained in the previous version of the policy, has been deleted.
DATA	<ul style="list-style-type: none"> New definition added following changes made to the COMPUTER SYSTEM and PROPERTY DAMAGE definitions.
DEFENCE COSTS	<ul style="list-style-type: none"> Reference to legal expenses '<i>arising out of representation at any inquest or inquiry or arising out of the defence of any proceedings in a criminal court</i>' deleted. (See also comments to the new General Exclusion for Regulatory Costs or Criminal Investigation Costs.
ENDORSEMENT	<ul style="list-style-type: none"> New definition added.
EXCESS	<ul style="list-style-type: none"> New definition added to replace the previous 'DEDUCTIBLE' definition.

DEFINITIONS (Cont.)

Item	Comments
FINANCIAL LOSS	<ul style="list-style-type: none"> Reference to third parties within the definition qualified by the addition of text stating '<i>... who is not an INSURED...</i>' Previous text '<i>... resulting from the BUSINESS of the INSURED ...</i>' deleted. The word 'directly' has been included.
INSURED	<ul style="list-style-type: none"> Qualifying text '<i>but only for acts within the scope of the BUSINESS</i>' added to limb c. of the definition.
PERIOD OF INSURANCE	<ul style="list-style-type: none"> Amended to take account of General Condition 1 (Cancellation) of the policy.
PERSONAL INJURY	<ul style="list-style-type: none"> Noting that a full cyber exclusion applies to the standard policy, limb b. of the definition has been amended to refer only to '<i>... <u>physical</u> invasion of privacy <u>not otherwise excluded by this POLICY</u> ...</i>'. Limb d. of the previous definition referring to mental anguish/mental injury deleted (See also comments above to the BODILY INJURY definition).
PFAS	<ul style="list-style-type: none"> New definition added following inclusion of a new PFAS exclusion.
PROPERTY DAMAGE	<ul style="list-style-type: none"> Definition broadened to include 'loss of' and 'physical destruction of' tangible property. Previous text '<i>All such loss of use shall be deemed to occur at the time of the physical injury that caused it.</i>' deleted.
UNDERWRITERS	<ul style="list-style-type: none"> New definition added.

SECTION B - POLLUTION LIABILITY

Item	Comments
SECTION B – INDEMNITY	<ul style="list-style-type: none"> Requirement for the entirety of the pollution to occur during the policy period removed. All pollution must now occur within a 30-day period. Facility to apply a retroactive date now included within the 'Claims Made' (LMA3151B) policy. Where pollution is not continuous (for example drip release of a pollutant) an additional paragraph has been included requiring the provisions stated within limbs a., b. and c. must be satisfied for cover to apply. Where the 30-day period referred to above spans more than one policy period, text has been included deeming all pollution to have occurred at the point in time when it first started. Final paragraph within the 'Claims Made' (LMA3151B) policy amended to include additional language reiterating that a series of claims arising from one event will be deemed as one claim regardless of the number of claimants and to have been made on the date the earliest claim was made against the insured.

SECTION B - POLLUTION LIABILITY (Cont.)

Item	Comments
SECTION B – EXCLUSIONS	<ul style="list-style-type: none"> Exclusions for the following have been added: <ul style="list-style-type: none"> ➤ Events resulting in pollution over a period exceeding 30 days. ➤ Claims relating to the threat of pollution now expressly excluded.

SECTION C - PRODUCTS LIABILITY

Item	Comments
SECTION C – INDEMNITY	<ul style="list-style-type: none"> Previous 'batch' related text replaced with reference to 'a common defect' to distinguish between different causes of claims which may relate to the same batch of a product.

GENERAL EXCLUSIONS

Item	Comments
Preamble	<ul style="list-style-type: none"> Amended so the exclusions now apply '<i>...regardless of any other cause or event contributing concurrently or in any other sequence thereto: ...</i>'.
ASBESTOS	<ul style="list-style-type: none"> Amended to include '<i>...any exposure to or fear of a consequence of exposure to [asbestos]</i>'.
CLIMATE CHANGE	<ul style="list-style-type: none"> New exclusion.
COMMUNICABLE DISEASE	<ul style="list-style-type: none"> New exclusion.
CYBER ACT, CYBER INCIDENT, AND LOSS OF DATA	<ul style="list-style-type: none"> Previous Cyber Loss exclusion replaced in line with the approach taken on other LMA wordings.
LIQUIDATED DAMAGES	<ul style="list-style-type: none"> Exclusion broadened to apply to guarantees. Amended to state the insured must be party (or alleged to be a party) to liquidated damages clauses etc. for the exclusion to apply.
NORTH AMERICAN DOMICILE OR JURISDICTION	<ul style="list-style-type: none"> Broadened to exclude judgments, awards etc. made within any country or territory subject to US/Canadian law unless the North American Jurisdiction Extension applies.
PERFLUORINATED COMPOUNDS, PERFLUOROALKYL AND POLYFLUOROALKYL SUBSTANCES	<ul style="list-style-type: none"> New exclusion.

GENERAL EXCLUSIONS (Cont.)

Item	Comments
RADIOACTIVE CONTAMINATION	<ul style="list-style-type: none"> Broadened to include a new limb: <i>'e. any chemical, biological, bio-chemical materials, whether weaponized or not;'</i>
REGULATORY COSTS OR CRIMINAL INVESTIGATION COSTS	<ul style="list-style-type: none"> New exclusion.
RELATED COMPANIES	<ul style="list-style-type: none"> New exclusion.
RELATED OR ASSOCIATED PARTIES AND/OR JOINT VENTURES	<ul style="list-style-type: none"> New exclusion.
WAR, WARLIKE ACTS, AND RIOTS AND STRIKES	<ul style="list-style-type: none"> Broadened to exclude: <ul style="list-style-type: none"> ➤ warlike operations ➤ coup d'état ➤ martial law

CLAIMS CONDITIONS

Item	Comments
Preamble	<ul style="list-style-type: none"> Previous failure to comply language deleted; the remedies available to underwriters for breach are now stated within the relevant conditions.
ALLOCATION	<ul style="list-style-type: none"> New condition added, the equivalent text from the previous policy was contained within the Settlement condition.
ASSUMPTION OF LIABILITY	<ul style="list-style-type: none"> Clause rewritten. Underwriters' entitlement to take over and conduct the defence / settlement of a claim is now included within a new Handling of Claims provision.
HANDLING OF CLAIMS	<ul style="list-style-type: none"> New condition added incorporating some of the provisions contained within the Settlement clause of the previous policy. Underwriters' claims handling rights broadened.
NOTICE OF OCCURRENCE OR CLAIM (LMA3150B) NOTICE OF CIRCUMSTANCE OR CLAIM (LMA3151B)	<ul style="list-style-type: none"> Previously titled Notice of Claim; reference to arbitration now included.
SUBROGATION AND RECOVERIES	<ul style="list-style-type: none"> Clause moved from the General Conditions to the Claims Conditions. Superfluous text deleted. Rights of recovery broadened to require the insured to formally assign such rights to underwriters at their request. Previous text detailing the sequencing of how amounts recovered are redistributed deleted.

GENERAL CONDITIONS

Item	Comments
Preamble	<ul style="list-style-type: none"> Previous failure to comply language deleted; the remedies available to underwriters for breach are now stated within the relevant conditions.
CHOICE OF LAW	<ul style="list-style-type: none"> Text previously formed part of the Policy Disputes General Condition but now a separate condition. Broadened to include disputes relating to the validity of the policy.
DISPUTE RESOLUTION	<ul style="list-style-type: none"> Previous Policy Disputes condition rewritten and broadened to apply to any dispute or difference (including the breach, termination, formation, or validity of the policy). Provision for arbitration included. Service of Suit text included.
FALSE OR FRAUDULENT CLAIMS	<ul style="list-style-type: none"> Previously titled 'MISREPRESENTATION AND FRAUD' Condition amended to reflect more closely the position under the Insurance Act 2015.
INSOLVENCY	<ul style="list-style-type: none"> New condition added.
INVALIDITY OR UNENFORCEABILITY	<ul style="list-style-type: none"> Previously titled as the 'CONFLICT OF STATUTES / LAW' Condition amended to address circumstances where part of a provision may be found invalid / unenforceable.
JURISDICTION	<ul style="list-style-type: none"> Previously formed part of titled as 'JURISDICTION' under the old Policy Disputes condition. Text stating '<i>All matters arising hereunder shall be determined in accordance with the law and practice of such court.</i>' deleted.
NON-ASSIGNMENT	<ul style="list-style-type: none"> New condition added.
OTHER INSURANCE	<ul style="list-style-type: none"> Condition reworded and text stating policy cover applies only in excess of deductibles, retentions and limits applicable under other policies included Sentence stating nothing [within the clause] will waive or alter the insured's liability to pay the policy excess added.
PAYMENT OF PREMIUM	<ul style="list-style-type: none"> New condition added.
SANCTIONS	<ul style="list-style-type: none"> Clause updated in line with LMA3200.
THIRD PARTY RIGHTS	<p>Amended to state that the policy:</p> <ul style="list-style-type: none"> is effected solely between the insured and underwriters does not confer any benefits on third parties including shareholders.
WAIVER OR CHANGE	<ul style="list-style-type: none"> New clause added stating that notice to/knowledge of any person shall not apply to waive or change the terms of the policy or stop underwriters from asserting their rights under the policy unless an endorsement has been issued to that effect.