



EXEMPT ARRANGEMENT UNDER THE MEDICAL INDEMNITY (PRUDENTIAL SUPERVISION AND PRODUCTS STANDARDS) ACT 2003 (“THE MIA”) FOR EMPLOYED MEDICAL PRACTITIONERS

1. MPLC is pleased to announce that, as a result of new regulations to the MIA, MPLC will extend the cover it provides for medical establishments to include certain employed doctors who previously did not have the benefit of cover.
2. Under the MIA, a health care professional is an individual who provides health care and includes a medical practitioner and a registered health care professional. Medical indemnity cover to a health care professional must be provided by a general insurer or Lloyd’s underwriter by a contract of insurance.
3. Under the MIA, there are requirements to provide prescribed minimum cover and standards in medical indemnity cover provided to medical practitioners. The MIA states that the minimum cover and standards must be provided to a medical practitioner or a registered health professional prescribed by the regulations. The prescribed minimum cover and minimum standards under the MIA include A\$5 million cover (for any single claim and in the aggregate for all claims in any one year), a requirement to make an offer of unlimited retroactive cover and to make an offer, in certain circumstances, of runoff cover.
4. Under a new regulation to the MIA effective from 25 June 2004, medical indemnity cover provided to an employed medical practitioner of an insured which satisfies the criteria of paragraph 4(1)(h) of the Medical Indemnity (Prudential Supervision and Products Standards) Regulation 2003 is not subject to the MIA and does not have to provide the prescribed minimum cover and minimum standards. For the exemption to apply:
 - (a) the medical practitioner must be employed by the insured medical establishment;
 - (b) there must be an “agreement or understanding” made between the employed medical practitioner and his or her insured employer before the medical indemnity policy incept, is renewed or is endorsed to provide such cover;
 - (c) the agreement or understanding must include a term that medical indemnity cover is to be obtained from a general insurer or Lloyd’s underwriter;
 - (d) the medical indemnity cover will provide indemnity for claims that may be made in relation to health care incidents to either or both of the employed medical practitioner and his or her insured employer; and
 - (e) the insurance providing such medical indemnity cover for employed medical practitioners must be made as a result of the agreement or understanding made between the employed medical practitioner and his or her insured employer.
5. Fundamental to the medical indemnity cover being provided to the employed medical practitioner being exempt from the MIA is that the agreement or understanding is made between the employed medical practitioner and his or her insured employer before the policy incept, is renewed or is endorsed.

The Medical Professional Liability Company Limited

Regal House, Queensway, PO Box 904, Gibraltar. T +350 42238 or +34 9567 42238, F +350 42239 or +34 9567 42239 www.the-mplc.com

The Medical Professional Liability Company Ltd is an underwriting intermediary licensed in Gibraltar by the Financial Services Commission, under licence number FSC00659B. The MPLC is a member of the General Insurance Standards Council. The MPLC’s insurances arranged at Lloyd’s

6. MPLC will offer medical indemnity cover which includes cover to an employed medical practitioner where the medical indemnity cover to the employed medical practitioner is exempt from the requirement of the MIA as specified in regulation 4(1)(h). It is a matter for the insured to ensure the prescribed agreement or understanding is made between the insured and the employed medical practitioner.
7. MPLC will now provide medical indemnity cover:
 - (a) to a named insured establishment with cover for employed medical practitioners where the cover to the employee is exempt from the MIA, where, at the time of the proposal, the insured discloses that it employs medical practitioners, or
 - (b) to a named insured establishment without cover to employed medical practitioners where the named insurer by the proposal discloses that at that time it did not have any employed medical practitioner.
8. For existing policies, MPLC will consider an endorsement to policies to extend cover to employed medical practitioners, where the cover to such employees is exempt from the MIA under paragraph 4(1)(h) of the regulation.
9. MPLC recommends, to ensure that insureds have in place the prescribed agreement or understanding to obtain the benefit of the extended cover now available, that each insured:
 - review existing employment agreements to ensure they are amended to include a provision that would satisfy the requirements of paragraph 4 (1)(h) of the regulation;
 - where such employment agreements are not in use, prepare an agreement which would satisfy the requirements of the regulation, for signing by an employed medical practitioner and the insured, to provide evidence of and a record that the prescribed agreement or understanding has been made;
 - ensure that presently employed and future employed medical practitioners either enter into an employment agreement or sign a document which satisfies the requirements of regulation 4(1)(h).

Sources of Information:

The regulations can be found at: <http://scaleplus.law.gov.au/html/numrul/20/10196/top.htm>

For further assistance:

Please contact Gibraltar Office: John.Young@the-mplc.com or Alistair.Carter@the-mplc.com

Sydney Office: Kenneth.Corcoran@the-mplc.com

MPLC
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