

Professional indemnity and your registration

Frequently Asked Questions

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Contents

Why has this statutory requirement been introduced?	3
What will the new requirement mean for registrants?.....	3
I am employed. What will the requirement mean for me?	4
I am self-employed. What will the requirement mean for me?.....	4
I undertake a combination of self-employed and employed work	4
I am a registered pharmacist in Northern Ireland but I work as a lecturer, not in direct healthcare. How does this affect me?	4
I am currently not practising/on maternity leave/taking a career break – do I have to come off the register? Will I need indemnity cover?	5
What about Good Samaritan acts?	6
What is vicarious liability?	6
What is adequate and appropriate cover?.....	6
How will we check that a professional indemnity arrangement is in place?.....	7
How will we judge adequacy and appropriateness?	7
Should I get insurance cover or an indemnity arrangement?	7
What is the difference between insurance and indemnity?	7
Where can I find guidance or support to help me choose an appropriate provider? ..	8

Why has this statutory requirement been introduced?

This statutory requirement for registrants to have appropriate professional indemnity cover as a condition of their registration with the Pharmaceutical Society NI was introduced by the Northern Ireland Assembly via the Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2013.

The Amendment Order came into operation on 7 November 2013.¹ This was necessary in order to comply with the requirements of Article 4(2) (d) of EU Directive 2011/24/EU on Patients' Rights in Cross Border Healthcare.

Enabling regulations to support the introduction of this statutory requirement were laid at the NI Assembly on 1 May 2014 and came into operation on 1 June 2014.²

This requirement has been introduced to enhance public protection so that if a patient has suffered harm because of the negligence of a registrant, they will be able to recover any compensation which they may be entitled to.

What will the new requirement mean for registrants?

This statutory requirement means that in order to be registered with the Pharmaceutical Society NI registrants will be expected to have appropriate indemnity arrangements in place.

The requirement to have indemnity cover was already a professional requirement and we consider that most registrants will already be able to meet this statutory requirement.

This requirement does not mean that all registrants need to take out separate professional indemnity insurance.

We consider that the vast majority of registrants will be indemnified by their employer or if they are self-employed will hold separate indemnity insurance via a professional body/trade union which offers an indemnity arrangement as a benefit of membership.

During the annual registration process for pharmacists, when you renew your registration, are registering for the first time or are applying to be restored to the register, we will ask you to sign a written declaration that you have or will have appropriate cover in place, once you begin practising.

¹ Council of the Pharmaceutical Society of Northern Ireland (Indemnity Arrangements) Regulations (Northern Ireland) 2014 <http://www.legislation.gov.uk/nisr/2013/258/introduction/made>

² <http://www.dhsspsni.gov.uk/pirc-indemnity.pdf>

I am employed. What will the requirement mean for me?

For most registrants, we anticipate that they already meet this requirement. Many work in a managed environment where they are indemnified by their employer.

If you are unsure you should always check what is covered by your employer's indemnity arrangements.

I am self-employed. What will the requirement mean for me?

If you are self-employed you will need to make sure that you have put in place your own arrangements for professional indemnity.

You should make sure that you understand the terms of your insurance policy make a full declaration of all material facts and relevant information to your insurer.

I undertake a combination of self-employed and employed work

If you undertake a combination of employed and self-employed work, or work for more than one employer, you need to make sure that you have an appropriate indemnity arrangement in place for each area of your practice.

I am a registered pharmacist in Northern Ireland but I work as a lecturer, not in direct healthcare. How does this affect me?

The requirement of the EU Directive³ is to ensure that a system of professional indemnity or insurance is in place for all healthcare delivered in the UK.

The requirement to have a professional indemnity arrangement in place applies to all registrants and all aspects of practice.

In such circumstances you would still need to assure yourself that your employers cover is sufficient for your needs and relevant to your scope of practice.

³ European Directive 2011/24/EU
<http://eurlex.europa/LexUriServ/LexUriServ.do?uri=OJ:L:2011:088:0045:0065:EN:PDF>

I am currently not practising/on maternity leave/taking a career break – do I have to come off the register? Will I need indemnity cover?

If you are registered with us but not practising because you are on a career break, maternity leave or have not yet secured employment you will still be able to register with the Pharmaceutical Society NI, we will not expect you to have professional indemnity cover in place.

When you renew your registration with us annually you will be asked to complete a written declaration that you will have appropriate cover in place, once you begin practising.

The following declaration sets out the arrangements which allow a registrant to remain on the register whilst not practicing and consequently not requiring insurance.

If you do not complete the declaration, you will not be registered.

INDEMNITY INSURANCE DECLARATION

It is now a statutory legal requirement that pharmacists have in place insurance or indemnity arrangements appropriate to their area of practice.

Please confirm by ticking the box:

I have in place, or will have in place, at the point at which I practise in Northern Ireland, insurance or indemnity arrangements appropriate to the areas of my practice

The Council of the Pharmaceutical Society of Northern Ireland (Indemnity Arrangements) Regulations (Northern Ireland) 2014 state:

“A registered person who practises as a pharmaceutical chemist must promptly inform the registrar if for any reason they cease to have in operation, in accordance with Article 11A (1) of the Order, an indemnity arrangement which provides appropriate cover”.

Please confirm by ticking the box:

I confirm that I will comply with the requirement to inform the registrar if for any reason I cease to have in operation, an indemnity arrangement which provides the appropriate cover.

If you are registered with the Pharmaceutical Society NI but not practising you must still advise us if these circumstances occur.

As set out in the Guidance we will seek further assurances that you will obtain and have evidence of an adequate and appropriate indemnity arrangement BEFORE you return to practice.

What about Good Samaritan acts?

We do not anticipate action being taken in the event of valid Good Samaritan acts.

What is vicarious liability?

The principle of vicarious liability means that an employer can be liable for the wrongs (e.g. negligence) committed by an employee in the course of their employment. It does not mean that the employee is no longer liable for their own negligence, including meeting any indemnity arrangements.

What is adequate and appropriate cover?

Appropriate cover means that you have cover in place which is appropriate to your role, scope of practice and the risks involved with your practice. The cover needs to be sufficient to meet the costs of litigation and any successful claim for compensation.

Levels and types of cover will vary from professional to professional and advice should be sought from specialist insurers/advisors on adequacy and appropriateness having regard to all of an individual's circumstances.

If you have made your own separate professional indemnity arrangements, you should ensure that you understand the terms of your cover and declare relevant information to your indemnity provider which would influence a provider's decision whether or not to offer cover.

The independent review group that recommended to the UK government the introduction of regulator led indemnity arrangements stated;

‘Provided that there has been full disclosure of relevant facts, in the event that personal cover for self-employed practice is alleged to be inadequate or inappropriate, registrants should be entitled to rely on the defence that they have acted in accordance with the proposals of their insurer or indemnifier.’

It is anticipated that this situation will apply in relation to complaints received by us.

How will we check that a professional indemnity arrangement is in place?

During the annual registration process for pharmacists, when you renew your registration, are registering for the first time or applying to be restored to the register, we will ask you to sign a written declaration stating:

- you have professional arrangement in place that is appropriate to your area of practice and can provide evidence of this indemnity cover, if requested
- or
- if you are not practising at the time of the application, that you will have such an arrangement in place when you begin to practise.

We will not routinely seek evidence of indemnity cover but may ask for evidence of indemnity cover in circumstances where a complaint has been made or there are concerns that appropriate indemnity cover may not be in place.

This statutory requirement for registrants to have appropriate professional indemnity cover is a condition of your registration with the Pharmaceutical Society NI. Therefore failure to sign the declaration means you will not be registered and you would be removed from the register.

How will we judge adequacy and appropriateness?

It is for individual registrants to assure themselves of adequacy and appropriateness.

Where we need to make checks we will rely upon the advice of appropriately qualified experts from the insurance and indemnity area.

Should I get insurance cover or an indemnity arrangement?

To meet the requirements of the legislation, either insurance or indemnity arrangements are acceptable, as long as the cover is appropriate, with regard to the particular nature and risks of the extent of your practice.

What is the difference between insurance and indemnity?

Indemnity is a means to cover off a risk, usually financially and may not involve an insurance provider. Insurance is a type of indemnity that is subject to contract terms.

Where can I find guidance or support to help me choose an appropriate provider?

It is the personal responsibility of registrants to assure themselves that they have cover in place appropriate to their area of practice. We cannot advise about the level and type of cover you will need.

Levels and types of cover will vary from professional to professional.

If you are unsure about adequacy and appropriateness of an indemnity arrangement, you should seek further advice. This might include speaking to your professional body, trade union/defence organisation, specialist insurer (if appropriate) or your employer.