Medical Protection | Dental Protection

Republic of South Africa and / or Namibia Retroactive Reporting Benefit (RRB) for individuals

Statement of benefits

Company Medical Protection / Dental Protection
Product Discretionary claims-made retroactive indemnity

The Medical Protection Society Limited ("MPS") is a company limited by guarantee registered in England with company number 00036142 and with its principal place of business at Victoria House, 2 Victoria Place, Leeds LS11 5AE. MPS is not an insurance company. All the benefits of membership of MPS are discretionary as set out in the Memorandum and Articles of Association. MPS®, Dental Protection® and Medical Protection® are registered trademarks. For information on MPS's use of your personal data and your rights, please see our Privacy Notice on the website.

The protection offered by the RRB is on a discretionary claims-made basis and supplements your primary occurrence-based membership with Medical / Dental Protection. Your primary membership must include claims indemnity for the RRB to apply. This document provides key information about retroactive indemnity provided through the RRB. It does not contain information on your occurrence-based membership benefits, so you should also read the Statement of Benefits document applying to this (also available at medicalprotection.org/southafrica or dentalprotection.org/ southafrica). Your membership documents will detail all the benefits available to you, and you should check these for any endorsements that change the scope of protection provided.

Why do I need retroactive indemnity?

South African and Namibian healthcare practitioners are not legally compelled to hold medical or dental professional indemnity. However, the Health Professions Council of South Africa (HPCSA) and Health Professions Council of Namibia (HPCNA) advise practitioners to maintain appropriate indemnity / insurance arrangements that cover the full scope of practice without gaps.

In addition, many employers, private hospitals and funders require proof of adequate protection as a condition of employment, admitting rights or network participation. Appropriate arrangements should respond to civil claims, regulatory (HPCSA / HPCNA) matters, inquests and related legal support arising from your clinical work.

When you join Medical / Dental Protection, your membership only protects you for matters relating to incidents occurring after your membership start date. If your previous provider offered protection on a claims-made basis for your work in either South Africa or Namibia, it's unlikely you will be able to receive assistance from them for incidents that occurred during this period of cover once you switch to us. As such, you require extended reporting benefits, either from your last provider or from us to ensure there are no gaps in your protection.

Registered healthcare / dental professionals moving from a claims-made provider to join Medical / Dental Protection on occurrence-based membership have the option to add an RRB at the application stage. Retroactive indemnity ensures that you have continuous protection for claims which you are currently unaware of that might arise from your clinical practice in previous years. If you do not add an RRB to your occurrence-based membership when you join, you will not be provided with indemnity or extended reporting rights for any incidents that may arise from your clinical practice prior to your start date with us.

This Statement of Benefits applies to healthcare / dental professionals moving from a claims-made provider to occurrence-based membership with us. If you're moving to our Medical Protection claims-made membership, we can still provide similar protection for past cover, but this Statement of Benefits does not apply. Please refer to our claims-made membership Statement of Benefits available on request or at medicalprotection.org/southafrica.

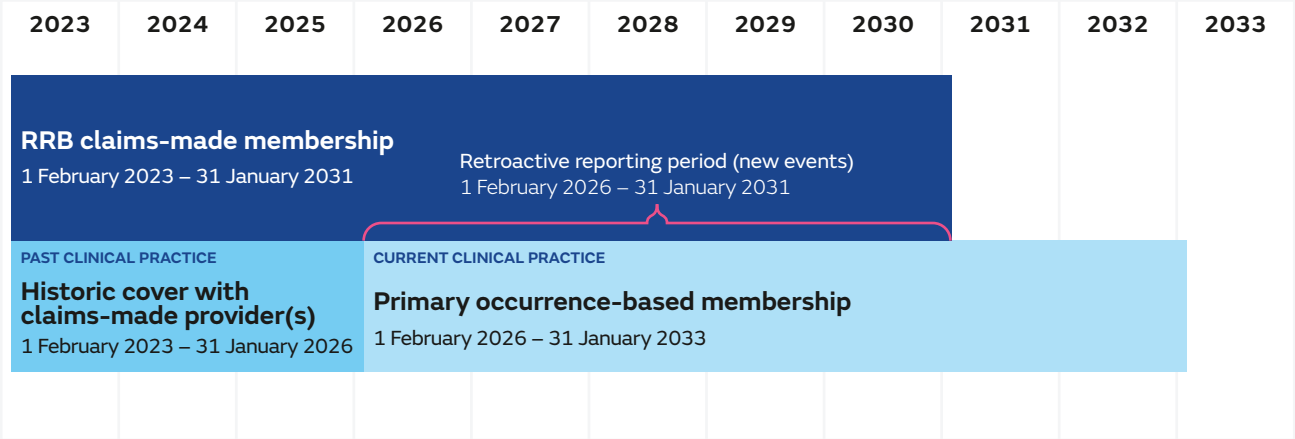
What type of retroactive indemnity does Medical / Dental Protection offer?

The standard membership offered to our members is discretionary and occurrence-based indemnity for matters arising from their clinical practice and is not insurance. Occurrence-based indemnity means you can ask for assistance with a claim and other matters relating to your clinical practice that arise during your membership, regardless of when the claim is notified or whether you are still a member.

Our RRB membership is for your past practice and runs alongside your occurrence-based membership for your current practice however, it is provided on a claims-made basis. As the RRB expands protection to include reporting rights for your past work covered elsewhere, you must have a retroactive date that reaches back to when you first began practising (or to when prior cover began) and keep protection continuous, otherwise earlier work may not be indemnified. The RRB provides an initial five-year fixed period of extended reporting rights (for past indemnified / insured work only) from when you join us that can be continued on expiry, subject to Underwriting review.

The protection offered by the RRB means if you become aware of an adverse incident that occurred during the time you were with your previous provider(s), you can report this to us and request assistance should anything arise from it in the future, so long as you notify us as soon as possible and before your RRB expires. This is providing you were not aware of the incident when you joined Medical / Dental Protection, as this should have been reported to your previous provider(s).

RRB membership is only available to individual healthcare / dental professionals that are joining us from a claims-made provider. The below example illustrates an RRB with a retroactive date of 1 February 2023 (to include past work covered by claims-made protection) and extended reporting rights from 1 February 2026 for the full period of claims-made protection for up to five years:



What does Medical / Dental Protection retroactive indemnity provide?

RRB membership is discretionary and, on a claims-made basis. It allows you to select a retroactive date to continuously protect past work previously covered by a claims-made provider and gives you a fixed period of extended reporting rights (initially five years, with the opportunity to extend further subject to Underwriting review), meaning you can:

- ✓ Report adverse incidents and claims to Medical / Dental Protection within the agreed RRB reporting period that arise from your past cover with previous claims-made providers.
- ✓ Seek assistance with any subsequent matters or claims arising from incidents appropriately notified to Medical / Dental Protection during the agreed RRB reporting period (initially five years).

Your RRB membership is designed to provide personalised protection for your past individual practice. However, if your previous professional protection included claims indemnity, you can also seek assistance with clinical negligence claims arising from the actions of up to four full-time equivalent (FTE) staff who supported your individual practice and for whom you were vicariously liable. Of these, we accept a maximum of two FTE to be clinical support staff (for example, nurses or dental nurses) and the remaining FTE can be non-clinical roles, such as a receptionist.

All requests for assistance are considered on their individual circumstances, declared scope of practice and the terms of your RRB membership. Membership benefits that apply to your RRB are summarised in the table below:

Indemnity for clinical negligence arising from:

- ✓ Private or independent / non-employer indemnified clinical practice in the Republic of South Africa or Namibia
- ✓ Good Samaritan acts (worldwide)
- ✓ Voluntary, humanitarian or charity work

Representation for:

- ✓ Regulatory matters
- ✓ Disciplinary proceedings
- ✓ Criminal allegations arising from your clinical practice
- ✓ Coroners' inquests

Support with:

- ✓ Medicolegal / Dentolegal advice (emergency helpline available 24/7)
- ✓ Defamation cases (legal costs only)
- ✓ Product Liability claims brought under section 61 of the Consumer Protection Act (CPA) alleging that a product supplied caused bodily injury
- ✓ Breach of confidentiality (directly related to clinical practice)
- ✓ Complaints handling
- ✓ Unwanted media attention

It is important to note that we cannot offer extended reporting rights for any past period where you worked without appropriate protection in place and as such, your RRB will specifically exclude any unindemnified / uninsured work. Additionally, if your primary membership with Medical / Dental Protection does not include claims indemnity (because your employer indemnifies your clinical practice, for example), you will not be able to apply for an RRB when you join.

What must I do to maintain the protection offered by the RRB?

As both memberships with Medical / Dental Protection work in tandem, you must retain your occurrence-based membership for the RRB to remain active. Should you pause your primary membership temporarily (because you have stopped working in medicine / dentistry due to maternity or paternity leave, for example) or permanently through retirement, you can apply for a deferred category of membership for your occurrence-based protection.

As a deferred member, you will still need retroactive indemnity for any incidents that may arise from your clinical practice covered by your claims-made provider(s) prior to the start date of your occurrence-based membership with us.

As a deferred member with occurrence-based protection, you will not be required to pay a subscription for your primary membership and you still retain your RRB membership, so you can:

- continue to report matters to us from **before** you joined and seek assistance for any subsequent cases or claims.
- request assistance with any medicolegal / dentolegal problems arising from a Good Samaritan act **after** you joined and can continue to access our risk prevention and wellbeing support services.
- reactivate your occurrence-based membership should you decide to return to work after a career break.

In the event of either temporary or permanent cessation of your clinical practice (or upon death), your RRB membership will remain in force and as a deferred member with an active RRB, you will be required to pay any outstanding subscription for your RRB membership (where applicable) before the expiry date. This requirement is waived upon death.

What is not indemnified by the RRB?

We carefully consider each request for assistance on a discretionary basis, but we would be unlikely to assist with:

- Any previous practice undertaken
  - that is not within an agreed retroactive period, or
  - without an insurance or indemnity arrangement in place at the time.
- Claims brought outside the country of membership (unless they arise from Good Samaritan acts which are protected worldwide or work covered elsewhere has been declared and agreed by us).
- Incidents known to you when applying for membership with us (these should have been reported to your previous provider).
- Any case or claim that has or should have been notified under any previous insurance or indemnity arrangement.
- Product Liability claims where the product is prohibited, unregistered or used outside the scope of clinical care.
- Any case and / or claim relating to a procedure which is outside of the current scope of membership, and you did not declare to us when you joined that you were performing different types of procedures and / or working in a different specialty with your previous provider(s).
- Matters arising from intentionally performing, supporting or encouraging female genital mutilation / female circumcision.
- Matters arising from the use of fully autonomous* Artificial Intelligence (AI) systems, tools or robotics.
- Matters arising from use of robotics where the clinician, robotic device and patient are not co-located.
- Incidents that are notified to us after the RRB has expired.

** Fully autonomous means that a clinician does not maintain oversight or final decision-making authority. AI must support but not replace clinical professional judgement.*

Are there any financial limitations to my membership?

The indemnity limit for each claim, and in the aggregate for all claims in the fixed five-year period of extended reporting rights (including legal costs) is R 50 million for Medical Protection members and R 10 million for Dental Protection members. No excess applies.

When we agree to take on a case, we can take care of any payments for damages or costs ordered against you or agreed in the settlement of the claim, as well as your legal costs.

What does discretionary indemnity mean for you?

We are dedicated to treating members fairly and placing them at the heart of everything we do.

All the benefits of membership are discretionary, as set out in our Memorandum and Articles of Association (available on request and at medicalprotection.org/southafrica or dentalprotection.org/southafrica). Among these benefits is the right to ask for assistance with a range of medicolegal / dentolegal issues, including indemnity for clinical negligence claims. As a mutual society we are owned by our members, so our starting point is always to see how we can help.

When determining whether or not to provide a member with assistance, or the scope of any assistance that can be offered, we ensure that the circumstances of the member's case are considered on an individual basis by appropriately qualified advisers, who are trained in medicolegal / dentolegal matters.

These advisers will exercise their good judgment, on the basis of their experience and knowledge of modern practice, and in line with our established procedures to ensure due process is followed, to decide whether or not we should assist in each particular circumstance. We will never exercise our discretion in an arbitrary or irrational way.

What are my responsibilities as a member?

All the benefits of membership are discretionary and subject to you complying with the Memorandum and Articles of Association. You must:

! Check your membership documents and tell us (if you applied directly) or the South Africa Medical Association (SAMA) or the South Africa Dental Association (SADA) of any inaccuracies to ensure that you are suitably protected.

! Ensure that any retroactive date is appropriate for your RRB membership.

! Pay the correct subscription rate on time (where applicable).

! Let us (if you applied directly) or the SAMA / SADA know as soon as reasonably possible if your contact details change.

In the event that you become aware of a previously unreported adverse incident, complaint or claim, or you wish to seek our assistance, you must:

- Notify us at the earliest opportunity of any matter where assistance may be required or that may lead to a claim.
- Comply with our reasonable requirements for case management (for example, attending conferences or meetings to provide information).
- Be honest and truthful in all dealings and behave in a reasonable manner towards our staff.
- Accept our choice of legal representation.
- Accept our advice and conduct of cases in all material matters (including case strategy and settlement).
- Co-operate fully with us and our representatives.
- Provide full and accurate information relevant to the case without delay and act in good faith at all times.
- Not admit legal liability for a claim or settle a claim without our agreement. This does not restrict you from complying with your professional obligations relating to open disclosure and being transparent in the event of an adverse incident, or from providing an appropriate apology.

Any failure to disclose full and accurate details could result in us rejecting requests for assistance, declining or withdrawal of membership benefits and / or the cancellation of your RRB membership.

When and how do I pay?

Generally, a subscription does not apply to your RRB membership (subject to Underwriting). In the event a fee applies, please refer to your membership documents on how to pay.

When does my RRB membership start and end?

Your RRB membership period is shown on your certificate of membership. The fixed period of extended reporting rights will initially be five years from the start date of your occurrence-based membership with Medical / Dental Protection.

You **must** retain your primary occurrence-based membership with Medical / Dental Protection for the RRB to remain active (either as a full-paying member or deferred member). Protection offered by the RRB is for matters and claims which you are currently unaware of that might arise from your clinical practice covered by your claims-made provider(s) prior to your start date with us.

How do I cancel my RRB?

You may cancel your RRB membership at any time, by giving at least two months' prior notice to us (if you applied directly) or the SAMA / SADA by phone or in writing (email or post). However, any circumstances arising from prior years that you first become aware of after your RRB membership is cancelled will not be indemnified by Medical / Dental Protection. It is important to note that any incidents notified to us during your RRB membership period will not be eligible for assistance if the RRB is cancelled.