

Incorporation by Consultants (Unlimited Company) and the Application of the Clinical Indemnity Scheme (CIS) Cover by the State Claims Agency (SCA)

The CIS covers clinical claims against HSE and voluntary hospitals/State authorities, including claims against the following categories of staff:-

- Non-consultant hospital doctors (to include public health doctors), nurses and other clinical staff employed by hospitals/enterprises and State authorities, whether permanent, locum or temporary.
- Hospital consultants are covered with effect from 1st February 2004 in respect of clinical negligence incidents occurring on or after that date. Cover applies in respect of his/her public practice in a public hospital, his/her private practice in a public hospital or at another facility used by the hospital to provide services to private patients of the hospital, subject always to the terms of his/her contract.
- The CIS also extends to indemnify consultants in respect of claims arising from the treatment of private patients in private hospitals/enterprises in circumstances where the individual indemnity cap limits, per speciality, have been exceeded.
- Incorporated doctors do not, in their incorporated capacity, fall within the definition of “*registered medical practitioners*”.
- Provided that the doctor renders his/her professional medical services in his/her natural person capacity, it is of no interest to the Agency whether that doctor has incorporated himself/herself or entered into a formal/informal partnership or similar arrangement for tax or other administrative purposes.
- For the avoidance of any doubt, CIS cover will only apply to the doctor in his/her “*natural person*” capacity. Thus, a claim against an incorporated doctor will be treated as a claim against the doctor in his/her “*natural person*”¹. However, for the avoidance of any doubt, CIS cover does not extend to cover nursing, technical and/or other ancillary staff employed by an incorporated entity, or other formal/informal partnership or similar arrangement. Cover under the CIS will apply only to the consultant, where he/she is employed by the incorporated entity.
- Should a claim be made against a doctor in his/her natural person and against the incorporated entity or other formal/informal partnership or similar arrangement, the SCA will treat the claim, in respect of the adverse clinical incident, as a claim against the doctor in his/her natural person.

STATE CLAIMS AGENCY.

10th June, 2011.

¹ Natural person means the doctor himself/herself i.e. not the incorporated persona.