



# Coventry Law Centre

## INDUSTRIAL INJURIES

### BENEFIT

**Percentages and weekly amounts**

<b>20%</b>	<b>£28.72</b>	<b>50%</b>	<b>£71.80</b>	<b>80%</b>	<b>£114.88</b>
<b>30%</b>	<b>£43.08</b>	<b>60%</b>	<b>£86.16</b>	<b>90%</b>	<b>£129.24</b>
<b>40%</b>	<b>£57.44</b>	<b>70%</b>	<b>£100.52</b>	<b>100%</b>	<b>£143.60</b>

Note: lower rates apply to under 18s without dependants.

This leaflet is intended to give general guidance only and is not to be treated as giving specific advice in respect of particular cases.

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## What Is Industrial Injuries Benefit?

This is a tax free benefit scheme for employees who either:

- a) have suffered injury caused by an accident arising out of or in the course of work.
- b) contracts a prescribed disease or prescribed injury while working.

You are covered if you are employed rather than self-employed. You may well be covered by the scheme if your accident occurs outside the United Kingdom as long as your employer was paying national insurance contributions while you were working abroad.

## What Benefit Can You Claim?

1. Statutory sick pay or employment and support allowance. If your accident or prescribed disease makes you incapable of work you should claim statutory sick pay from your employer. If you are not employed or not entitled to statutory sick pay you should claim employment and support allowance.
2. Industrial Injuries Disablement Benefit. This benefit is paid to claimants who have suffered disablement because of a loss of physical or mental faculty caused by an industrial accident or prescribed disease.

The only relevant factor in this benefit is the percentage disablement caused by the industrial injury or disease. You do not have to be incapable of work or have had any reduction in earnings. There is no age limit.

Benefit is payable from 15 weeks after the date of the accident or onset of the disease if your disablement is assessed at 14% or more. For some chest diseases the assessment can be less than 14%. For occupational deafness your disablement has to be 20% or more. There is no 15 week waiting period for the prescribed disease diffuse mesothelioma.

3. Reduced earnings allowance. Although this benefit has been abolished for accidents or diseases occurring after 1<sup>st</sup> October 1990, you can still claim reduced earnings allowance if your accident or disease began before this date. It seems that there is no upper age limit for claiming this benefit. You must claim this benefit on a separate form to your claim for disablement benefit. Reduced earnings allowance is paid if your earnings capacity has been reduced as a result of your industrial accident or disease.

To qualify for reduced earnings allowance you must have a current assessment of at least 1% disablement. You must be unable to return to your regular occupation or do work of an equivalent standard. The benefit is intended to make up for loss of earnings as a result of industrial injuries disablement. There are two ways of qualifying for reduced earnings allowance:

- a) The continuous condition - you must have been incapable of following your regular occupation and any suitable employment of an equivalent standard from 90 days after your accident happened or your disease began.

The permanent condition - this means that you are now incapable and likely to remain permanently incapable of following your regular occupation or employment of an equivalent standard.

The maximum payable is £52.68 per week.

4. Retirement Allowance. This allowance replaces reduced earnings allowance when you reach pension age or after pensionable age when you give up regular employment.

The maximum payment is £24.76 per week and the minimum is 50 pence per week. You would have had to have received at least £2 reduced earnings allowance to be paid retirement allowance.

## **How Is Your Disablement Assessed?**

You will almost certainly have to attend a medical examination. The doctor at your local Social Security office will give an opinion on the extent of your disablement and how long the disablement should last. It is important that you remember that only disablement caused by the accident or disease will be taken into account for example, if you have injured your back any previous medical condition relating to your back will be taken into account and will not be included in the percentage disablement.

The decision may be either provisional or final. A provisional decision will be made for a set period and then should be reviewed towards the end of that set period. A final decision may be for life or for a fixed and limited period. If it is for a fixed period, you would have to renew your claim if you think that there is still disablement from the accident or disease at the end of that period.

## **How Much Disablement Benefit Do You Get?**

Before the 1<sup>st</sup> October 1986 lump sum gratuities were made on the basis of your disablement. This may have been a life time gratuity.

Since 1<sup>st</sup> October 1986 you would receive a weekly benefit based on the level of assessment if it is over 14%.

There is a complex method of assessment so that assessments between 14% and 24% will be paid at the 20% rate. Assessments of between 25% and 34% are paid at the 30% rate. See the table at the front of the leaflet for weekly amounts payable.

## **If Your Condition Gets Worse**

If you believe that your disablement, caused as a result of your industrial accident or disease, has worsened, you can request a supersession of the previous decision.

You should always be careful when asking for a supersession because it is possible that your disablement may be reduced or even nilled. This would be particularly important if, for example, you receive the full rate of reduced earnings allowance or you receive the lowest rate of disablement benefit because you are assessed at just 14%. You could then possibly lose all of your industrial injuries benefit.

You should also remember that only disablement caused as a result of the accident or disease is relevant. It could be the case that, although your total percentage disablement increases, the decision is that this is mainly as a result of a non-industrial condition.

## **Common Law Compensation**

You may wish to make a civil claim for personal injury against your employer. The time limit for filing civil claims is generally three years from the date of the accident or three years from the date you became aware that your disease was caused by work.

You will need a solicitor. Your Union may be able to help. Coventry Law Centre can advise you on a solicitor who is approved by the Law Society.

Please note that any benefit which you have claimed may come off the final compensation payment.

Your solicitor may wish to advise you regarding this matter. However, it is almost certainly worth making a claim for the relevant benefits as a compensation case may well take months or even years to be decided. It is also possible that the civil case may not be allowed in your favour while the industrial injuries benefit may be paid to you.

## **Appeal**

If you are turned down it is always worth asking advice about an appeal. You can appeal against a decision to refuse any of the benefits mentioned above. The appeal may be to a medical Tribunal where you will probably be examined to assess the correct percentage disablement.

You can also appeal, for example, against a decision that you have not suffered an industrial accident, that you actually have a prescribed disease, that your condition has got worse or that you satisfy the conditions for reduced earnings allowance.

Coventry Law Centre can advise you and may be able to represent you either by a written submission or at the hearing.

If the appeal relates to a medical question, you may wish to seek representation from a Trade Union or an expert in the relevant medical area.

Further information, the law regarding these benefits is very complex. The above is only a summary of the law relating to industrial injuries benefit. For more information regarding the definition of prescribed diseases and industrial accident you can obtain a leaflet from your local DSS office.

You can contact the Law Centre to discuss your appeal on 024 76223053.

## **How To Claim**

To obtain a claim form telephone 01623 452300.

Although every effort is made to ensure the information in this leaflet is accurate and up to date, it should not be treated as a complete and authoritative statement of the law and does not constitute legal advice - we cannot be held liable for any inaccuracies and their consequences. The information in this leaflet is written for people resident in, or affected by, the laws of England and Wales only.