BENEFITS UNDER THE INDUSTRIAL INJURIES SCHEME

Who is covered by the scheme?

The Industrial Injuries scheme provides no-fault, tax-free benefits for an employee who ‘suffers personal injury caused on or after 5th July 1948 by an accident arising out of and in the course of’ work, or who contracts a prescribed disease or a prescribed injury while working. You are covered by the scheme if you are working for an employer, but not if you are self-employed.

Industrial accidents

If you have an accident, report the details as soon as possible to your employer. Enter them in an accident book. You should ask the Department for Work and Pensions for form BI100A. This form asks for details about you, your place of employment, and the accident you’ve had and how it has affected you. Completing and returning this form means you’ve made a claim to Industrial Injuries Disablement Benefit.

Prescribed industrial diseases

Benefits can also be paid for more than 70 different diseases which are prescribed as being risks of particular jobs and not just risks common to the general population. These are listed in Department for Work and Pensions guide DB1. A claim can be made on form BI100PD.

If you suspect that your condition is related to your work you should ask the Department for Work and Pensions or the Welfare Rights Service for advice.

What benefits can you claim?

Industrial Injuries Disablement Benefit is paid to compensate those who have suffered disablement from a loss of physical or mental faculty caused by an industrial accident or prescribed disease.

You can claim whether or not you are incapable of work or have any drop in earnings.

With some exceptions, benefit is payable from 15 weeks after the date of the accident or the onset of the disease and only if your disablement is 14% or more. For certain diseases—pneumoconiosis and byssinosis—a disablement of only 1% is required for benefit to be paid.
Disablement arising from diffuse mesothelioma and asbestos-related lung cancer will be assessed as being 100%.

To get benefit for occupational deafness, your disablement must be assessed as being 20% or more.

**Reduced Earnings Allowance**

Reduced Earnings Allowance (REA) was abolished on 1st October 1990 but only for accidents or diseases occurring after this date. So if you had an accident or suffered from a disease which started before this, seek advice.

Reduced Earnings Allowance is only payable during a period of a disablement assessment of at least 90 days.

**Retirement Allowance**

Retirement Allowance replaces REA if you are already getting at least £2 a week Reduced Earnings Allowance and are not in regular employment when you reach pension age.

Industrial Injuries Disablement Benefit, Reduced Earnings Allowance and Retirement Allowance are all tax-free and paid on top of all other earnings or other non-means tested benefits you may get.

However, please note that Industrial Injuries Disablement Benefit is treated as income when claiming means-tested benefits. If you are receiving means-tested benefits please seek advice before making a claim for Industrial Injuries Disablement Benefit.

**How are claims decided?**

All decisions, including medical issues, are made by a ‘decision maker’ acting on behalf of the Secretary of State.

**Accident cases**

If the decision maker decides that you have had an industrial accident and it ‘arose out of and in the course of your work’, you will be asked to go for a medical. You will be examined by Department for Work and Pensions doctors. They will provide the decision maker with a report. The decision maker will decide your claim based on this report and any other evidence.

**Prescribed industrial disease**

The decision maker will decide whether you have worked in one of the occupations prescribed for your particular disease or condition and whether it was caused by that occupation.

**If your condition gets worse**

To increase your assessment or extend the period it covers, you must ask for a supersession on the grounds of a change in circumstances and your claim will be looked at again. Any new assessment could be lower than your original assessment.
Extra allowances

The following further allowances can be paid:

• Constant Attendance Allowance
• Exceptionally Severe Disablement Allowance
• Unemployability supplement (only payable to existing claimants: it was abolished from 6th April 1987)
• Reduced Earnings Allowance: maximum £67.88 p/w
• Retirement Allowance: maximum £16.97 p/w

Backdating

Claims can be backdated for up to three months if you satisfy the qualifying conditions over that period, except in cases of occupational deafness where no backdating is possible. You do not have to show any reasons why your claim was late. Request that your claim is backdated on the claim form.

How to challenge a decision

If you are unhappy with the decision on your claim, you have one month from its date to ask the DWP to reconsider it. If you are still not happy with the new decision you receive, you can appeal it to an independent tribunal. You have one month from the date the new decision was sent to you in which to lodge your appeal.

If you are a resident of County Durham, the Welfare Rights Service can give you advice on how to ask for a reconsideration or appeal, and we may also be able to represent you at an appeal hearing. If you would like advice about disputing a decision, please contact us.

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