

INDUSTRIAL INJURIES DISABLEMENT BENEFIT

If you are injured in an accident at work you may be entitled to receive Industrial Injuries Disablement Benefit. This is a no fault, non-means tested, tax free and non-contributory benefit. Despite these advantages, I find that many who are injured at work fail to apply for this benefit and may be missing out on an entitlement to hundreds even thousands of pounds. The good news is that you can still apply even if the accident was some years ago as there are generally no time limits on applications.

Here I consider what is required to be eligible for this benefit and how to apply for it.

Industrial Accident

To be entitled to this benefit following an accident it must first be accepted that there has been an *industrial accident*. The relevant legislation does not define what is meant by an *accident* but for the purposes of this scheme it is generally given a fairly broad and elastic meaning. Any unexpected mishap or untoward event may count as an accident. For example, a worker who suffered a heart attack when lifting a heavy item who was found to have had an accident. An employee who suffered shock when he saw a colleague walking through his workplace after he believed he had died in an earlier accident, was accepted as having been injured in an accident. Even a conversation in which an individual was traumatised by abusive and hostile comments at work has been classified as an accident.

To be recognised as an *industrial accident*, the incident must have arisen *out of* and *in the course* of employment. You do not always have to be in your workplace for an accident to qualify. You may be driving for the purposes of your work or even working from home. It may also be possible to fall within the scheme if injured whilst not actually doing your work, provided that what you were doing was reasonably incidental to it. This could include incidents that occurred during a tea break or even whilst chatting or smoking.

Disability

Once it has been established that there has been an industrial accident, it is then necessary to assess the extent to which this has resulted in some disablement. The applicant is assessed by a doctor who then ascribes a percentage figure to their disability. To qualify for benefits the disablement must be assessed at a minimum of 14%. Certain conditions have fixed levels of disability (for example, loss of a thumb is 30% or total loss of an arm is 90%) but generally the figure will be based upon the medical examination.

The amount of benefit that is paid depends upon the degree of disability. At present the weekly amounts paid range from £25.42 for those with at least 14% disability to £127.10 for those in the 100% band.

Disability arising from several industrial accidents can be added together. For example, an applicant may have a back injury which causes 4% ongoing disablement. If they then have a neck injury which causes a further 10% disability then these figures can be added together, bringing them up to the necessary 14% disablement at which benefit becomes payable. Also, if a condition deteriorates it is possible to ask for the degree of disability to be reassessed.

Psychiatric Injury and Stress

The scheme covers disability arising through psychiatric injury as well as physical injury. Some incidents can leave people traumatised, even though they suffered no physical injury. For example, a police officer who attended the horrific aftermath of a series of IRA bombings was able to recover benefits for a mental breakdown caused by the trauma of witnessing these shocking events.

Particular problems have arisen in the context of occupational stress. Work-related stress is often caused by a gradual process from being overworked or bullied over a period of time. Injury caused by a process is not injury caused by an *accident* and falls outside of the Industrial Injuries scheme. One has to attempt to identify a particular incident or series of incidents that triggered the breakdown in the applicant's mental health and then be able to categorise these as accidents. There are occasions when work-related stress has been accepted as being attributable to an "accident" at work, but without a change in the law, one will frequently find that one is attempting to fit a square peg into a round hole.

Prescribed Diseases

The exception to the rule that the applicant must have been injured in an accident is where they are suffering from a *prescribed disease*. Applicants suffering from any of a series of about 70 identified medical conditions which are recognised as being risks of certain occupations may be entitled to recover benefits. Examples of prescribed diseases include hearing loss from noise exposure, mesothelioma from exposure to asbestos, even allergic rhinitis suffered by hairdressers.

Unlike claims arising from accidents, there are some time limits for applications in respect of certain prescribed diseases e.g. you must apply with 10 years of working in a prescribed occupation if you have occupational asthma.

Applications and Appeals

To apply for Industrial Injuries Disablement Benefit you have to submit a form BI100A (available on the North Yorkshire Police Federation website). There are also different forms for applications for prescribed diseases. These forms can be downloaded from the Jobcentre Plus website (www.jobcentreplus.gov.uk).

There is no entitlement to benefit for the first 15 weeks of disability following an accident or the onset of a prescribed disease. Thereafter you have three months from when the entitlement to benefit began to apply. You can claim after this but the benefits will not be backdated by more than three months.

If an application is rejected or if you are not satisfied with the decision that has been made (for example, you may dispute the assessment of the level of disability) then there is an appeals process through which the decision can be challenged. There are strict time limits that apply to appeals and it is often necessary to ensure that the relevant paperwork is sent without delay to avoid complications.

Conclusions

Whenever you are injured at work it is always sensible to consider whether there may be an entitlement to this benefit. Even if the current level of disability is not sufficient to make you eligible to benefits the accident will at least have been recorded. That way, if the condition deteriorates in the future or if you have another accident, you can ensure that you do receive your full entitlement to benefits.

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