

Public Sector Injury Benefit Scheme 2015

Application for Injury Benefit - Notes for Guidance

Purpose of this Guidance

Isle of Man Government employers and Injury benefit applicants must read the guidance notes carefully before completing the application form for injury benefits.

For ease of reference the numbered items in Section 5 of the guidance notes correspond to the numbered sections and questions on the injury benefits application form.

These notes are not a full statement of the legislation that governs the Public Sector Injury Benefit Scheme 2015 (the Injury Benefit Scheme) and more information about the Injury Benefit Scheme can be found on Public Sector Pensions Authority (PSPA) website at: www.pspa.im

This leaflet provides both general and detailed information and guidance for those public sector employers, applicants and reporting doctors for submitting an application injury benefits under the Injury Benefit Scheme.

It comprises five sections:

Section 1 Provides general information that all users are advised to read

Section 2 Explains the role of NHS Pensions

Section 3 Explains the role of the NHS employer

Section 4 Explains the role of the applicant

Section 5 Provides question by question guidance for all contributors in completing the injury benefits application form.

Section 1 General information for all users

Injury Benefits from this Injury Benefits Scheme are available to employees who are members of or eligible to be members of the Isle of Man Government Unified Scheme 2011 (Unified Scheme). There are separate arrangements in place for those members of the Police Pension Regulations.

Employers whose employees participate in the Unified Scheme, must do all they can to identify cases and submit an application where an Injury Benefit may be appropriate. Employers cannot deny the making of an application unless the employee is one who is not covered by the Injury Benefits Scheme.

Important – From 1 April 2015, the Injury Benefit Scheme will be directed at those employees who may be forced to resign, retire or change their employment due to their injury and the injury benefit will be paid to them until they reach their state pension age.

If the employee is still employed and seeking to apply for a Temporary Injury Award (TIA), whilst on sick pay, then please contact your employer, as arrangements for TIA will be within the terms and conditions of employment or sick pay scheme arrangements. Further information on these arrangements can be sought from your employer's Business Partner at the Office of Human Resources.

Purpose and requirements of the Injury Benefit Scheme

The Injury Benefit Scheme is a 'no-blame' income protection scheme intended to top-up income of successful injury benefit applicants between 15% and up to a maximum of 85% of previous earnings (not including overtime or bonus payments). An injury benefit will be paid until the applicant reaches state pension age. The recipient's continued entitlement to the benefit will be under regular review. It is not intended to provide direct compensation for illness or injury.

The Scheme requires that three criteria are satisfied:

Firstly, the applicant must be employed by the right type of Isle of Man Government employing authority.

Secondly, the applicant must have suffered an injury or contracted a disease that is:-

- Sustained in the course of their employment and which is wholly or mainly attributable to that employment, or
- Wholly or mainly attributable to the duties of that employment.

Third, the applicant must have suffered a permanent impairment to their earning capacity in excess of 10%. For this purpose 'permanent' means to age 65.

Applications must be made within 6 months from the date on which the applicant meets the above criteria.

Not all applications will result in benefits being awarded.

More information is available on the website at www.pspa.im and in the Public Sector Injury Benefit Scheme 2015 Guide downloadable from website.

Section 2 Role of the Public Sector Pensions Authority (PSPA)

The PSPA, via its medical advisers, is responsible for administering the Injury Benefit Scheme under the provisions of the Public Sector Injury Benefit Scheme 2015. A full copy of the Injury Benefit Scheme can be viewed or downloaded on the PSPA website.

The PSPA will determine whether an applicant is entitled to an injury benefit and if so, the level of benefit they will receive. Applicants who are dissatisfied with the outcome of their claim have a right of appeal, which will be fully explained at the time.

The PSPA or its medical advisers will keep both the applicant and their employer informed of progress whilst processing the application. On completion they will issue a formal decision letter to both. Where the application is unsuccessful we will provide the applicant with an explanation of how the decision was reached and details of appeal opportunities.

In considering each claim the PSPA must consider all relevant evidence and weigh that evidence accordingly. The weight to be attached to each piece of evidence is for the PSPA to decide. In addition to the information presented with the application, the PSPA may obtain further information/evidence it

deems necessary in order to have as full a picture as possible. This may include the applicant being examined by an independent medical expert or functional analyst.

Having decided that the applicant is employed by a participating employing authority, when the PSPA is satisfied that it has as much relevant evidence/information as it needs in order to make a decision it will, in the first instance, decide whether the applicant meets the attribution test. i.e. whether they have suffered an injury or contracted a disease that is:-

- Sustained in the course of their employment and which is wholly or mainly attributable to that employment, or is
- Wholly or mainly attributable to the duties of that employment.

Applicants may sometimes claim for more than one injury or disease so it is important that we have all the relevant information.

The PSPA takes advice on medical matters from a panel of professionally qualified and experienced occupational health physicians, who also have access to specialist input/advice where necessary.

When the PSPA is satisfied that the applicant meets the requirements of the attribution test it will begin to assess the degree permanent impairment of earning capacity , which, in turn, will contribute to determining the level of benefits payable, if any.

From receipt of a completed application form and relevant supporting documents, the PSPA will endeavour to make their decision within 15 to 20 working days.

Section 3 Role of the employer

The provision of Injury Benefits form part of the conditions of employment and it is the employer's responsibility to ensure that they have a proper and open system in place to identify situations where a claim for injury benefits might be appropriate and to initiate the claims process.

Those involved in the employer role e.g. managers, supervisors, payroll, and human resources personnel must do all they reasonably can to identify possible cases and make staff aware of their rights to claim injury benefits, either under this scheme or the Temporary Injury Benefit allowance under terms and conditions of employment.

You must issue an Injury Benefit application form and complete Part A.

Failure to provide any of the information required will result in a delayed decision.

We need as much information as possible about three specific areas:

- The injuries sustained or the disease contracted by the applicant, its treatment and prognosis.
- How that is connected to their duties (i.e. what caused it)
- How or whether the injury or disease has caused a permanent reduction in earning ability

In all cases: you must include with the application, copies of

- All accident reports.
- All Occupational Health Department notes and records.
- Reports of any internal investigation connected with the claim.

- A full job description.
- Sick leave records
- A full statement of events explaining what injury or disease the applicant is claiming for and the circumstances leading to the claim, i.e. how the injury or disease is connected to their work. Employers who do not support the claim must still provide a statement, and in these cases, it would be very helpful if you explained your reasons for not supporting the claim. Rule 6.10 of the Injury Benefit Scheme requires that Employing Authorities provide whatever information the PSPA needs to process a claim. Section 5 of this guidance provides more information to help you complete your part of the application form.

Section 4 Role of the applicant

In order to deal with your claim properly and promptly it is important that we have as much information as possible about your injury or disease, how and when it came about, the cause, the effect on you and your ability to work, and the prognosis.

The application form contains two Parts. Your employer must complete Part A and you must complete Part B. We would strongly recommend that you provide us with a statement explaining in your own words what has happened [describe the incident(s) or accident(s)], how that has injured you [what injury or disease are you suffering from as a result] and what effect that has on your ability to work and carry out your daily activities.

Also please check the information provided by your employer at Part A and any other accompanying documentation they have provided. You cannot alter anything your employer has provided, but if you disagree with any of the information they have given us, tell us what you disagree with and why.

Lastly, please let us have copies of any documents or reports that you think support your claim. Do not send originals if you can avoid it. If you do not have certain documents or reports that you would like us to see, but you have the contact details of where we can get them, please give us the details and we will do our best to obtain them.

The following are suggestions for useful information you may wish to let us have, which will allow us to consider your claim.

Please do not feel overwhelmed by the following list. Not all of course, will apply to you. Part of the process may include seeking your consent for medical evidence, which we will obtain from your GP, specialists and occupational physician if we do not already have it from yourself or employer and a medical adviser looking at your claim considers this is appropriate.

If you can help with supplying additional evidence where it does apply to you it will be very useful.

For applicants who have had an accident at work:

- If you had more than one injury include documentation about each if you have it.
- If you had a physical, psychological injury or both, as a result of an incident or series of incidents at work, which was recorded in the accident book, please include a copy of that form if your employer has not already done so. Your employer should be able to help you obtain a copy.
- If you sought an accident declaration by the Social Security Division (formerly DHSS) include a copy of that. They can help you obtain a copy of the declaration, and if you have

claimed Disablement Benefit, you may also ask them for copies of the medical assessment papers.

- If you had an accident at work, and did not have it entered in the accident book, but a colleague witnessed it, include a signed statement from that witness if you can.
- If you cannot remember the exact date of an accident or incident at work and it was not recorded or witnessed but you attended your GP, they may be able to confirm that attendance and the date from their notes.
- If you attended A&E, they may have sent your GP a discharge summary.
- If you attended Occupational Health following the injury, they may also be able to help with dates and details.
- If you have already been awarded Temporary Injury Allowance [TIA] and have any relevant documents about it, it would be useful to let us have these too.
- If you have sought compensation or damages and have evidence, such as expert medical reports, or details of judgements and outcomes, which may be helpful relating to this, please include them.

For applicants who consider they have contracted an illness or disease at work:

- If you have contracted a notifiable infectious disease such as hepatitis or tuberculosis you are likely to have documentation from your Occupational Health and/or Public Health Departments confirming this.
- If you have contracted an occupational disease, which is also a prescribed disease under the DSC Industrial Injuries Disablement Benefits, such as occupational asthma or dermatitis, and it has been accepted and assessed as such it will be useful to let us have copies of the Social Security documents of acceptance, assessments and awards if you have them. If you do not already have them you may be able to request them from the Social Security Division.
- If you think you have suffered some kind of psychological or mental health injury because of your work, it is important to include any documents that can give the views or perspectives of other people who perhaps witnessed or were involved in the situation. For instance you may have:
 - A colleague who can give you an account from their perspective.
 - Copies of letters and/or e-mails in which you have expressed your concerns about an adverse situation. For instance, to your manager or HR or Union rep, perhaps about overwork, poor relationships, lack of support or resources or equipment, the pace and degree of change affecting your role and duties, delay in handling your concerns, or perhaps about the effects of the adverse situation on your health.
 - Documents relating to a complaint or grievance you may have raised, and how this was investigated or resolved. A Union rep is often involved, and that person may be able to help you gather this documentation.
- If you have a work-related condition, such as work-related upper limb disorder [WRULD], which has been assessed by occupational health by way of workplace assessment, with various adjustments to your pattern of work and the provision of additional equipment, you may have documents that confirm such activity.
- If you have already been awarded Temporary Injury Allowance and have any relevant documents about it, it may be useful to submit these.
- If you have sought compensation or damages and have evidence such as expert medical reports, or details of judgements and outcomes, which may be helpful relating to this, then it will be useful to include it.

It is not necessary to prove that your employer was at fault to get Injury Benefit; it is a 'no-blame' scheme. Section 5 of this guidance provides more information to help you complete your part of the application form

Section 5 Completing the Injury Benefits Application Form

- The applicant's employer will complete **Section A**.
- The applicant will complete **Section B**.

Please complete the form using black ink

Section A – To the employer

Part 1

Insert the applicant's personal details.

We may already have obtained information in connection with an ill-health retirement pension application that would be useful in considering this application, so please tell us whether an application has been accepted.

Different regulations and criteria apply to this application depending on what has happened as a result of the work related injury or disease. Please tell us whether the applicant has terminated employment with you, moved to lower paid employment (this includes moving to part-time), or has died, and the dates.

Part 2 Complete Part 2 **only** if the employment has ended or the applicant has moved to lower paid employment.

- Q1. Tell us what the applicant's job was before the termination or change.
- Q2. We need the full name and address of the place of employment.
- Q3. Please tell us if the employment was part-time and if so the part-time and standard whole-time hours.
- Q4. It is important that we have as much information as possible about the applicant's working life. Please tell us what you know about any other IOM public sector employers they previously worked for and when.
- Q5. We need as much information as possible about all sick leave relating to this application so that we can map the onset and any progression of the condition claimed for.
- Q6. It is very important that we have accurate pay information. The figures to be shown are the same as 'pensionable pay'.
- Q7. It is very important that we know if the employer has awarded a TIA for this applicant.

Complete the next question **only** if the applicant has changed to lower paid employment.

Q8.(a)-(f) It is important to let us know whether the applicant has remained in the same job, but reduced their hours or if they have changed jobs completely.

Q9. The Scheme's Regulations require that any damages or compensation in respect of the same injury or disease shall be deducted from any injury benefit that becomes payable, so it is important that we have Solicitor's details to deal with this if an action has been taken out.

Part 3 Complete Part 3 **only** if the applicant has died as a result of the injury/disease being claimed for.

Qs 1- 6 A lump sum and/or allowance may be payable if the deceased applicant left a dependent adult survivor or dependent children when they died. If you are unsure what these details are, it is likely that the PSPA may already be processing a death benefit claim for pension purposes, so please refer to the PSPA for this information.

Part 4

Applies to death cases only.

If you are unsure what these details are, it is likely that the PSPA may already be processing a death benefit claim for pension purposes, so please refer to the PSPA for this information.

Part 5 To be completed in all cases please send us copies of the following. Do not send originals if you can help it

- All accident/incident reports
- All Occupational Health department reports and notes
- A full job description for the job the employee was doing before the accident/ incident.
- Any internal investigation or disciplinary reports connected with this claim.

In cases involving mental health conditions:

- A statement explaining what injury or disease the applicant is claiming for and the circumstances leading to the claim. i.e. how it is connected to their work.

Declaration and signature

The application cannot be processed unless it is authorised by a signatory for the employer such as the Accounting Officer or is not stamped.

Please show your contact details clearly so that we can get in touch with you quickly if we need to. You have now completed your action on this application form.

Please pass it quickly to the applicant for them to complete Part B. Don't forget to include all appropriate documents

Section B – To the applicant

Part 6

Q1. It is in your best interests to check what your employer has told us at Section A and any enclosures they have included. If there is anything you do not agree with, tell us what it is and why you do not agree. We can then investigate further if we think we need to.

Q2. The Scheme's Regulations require us to take into account certain benefits paid by the Social Care Division. It is very important that you tell us whether you are claiming, awaiting the outcome of, or appealing any claim, and the details of the office dealing with that claim so that we can check your payments etc. **Failure to do this may result in an overpayment of your injury benefit that you will have to repay.**

Q3. If the PSPA accepts that you have suffered an injury or contracted a disease that is:-

- Sustained in the course of your employment and which is wholly or mainly attributable to that employment, or is
- Wholly or mainly attributable to the duties of that employment

We will then assess your permanent loss of earning ability by identifying what other alternative job in the general field of employment you might be capable of undertaking before retirement. Knowing what qualifications you have will help us to do this.

N.B. It is important to understand that we will assess what job you might most likely be able to do before you reach retirement age; NOT what you can do now.

Q4. For the same reason, it is also important that you tell us if you have started working again, and what work you are doing since you left your public sector job.

Qs 5 & 6 & 7. **These questions are very important!** You cannot receive all of any damages or compensation you recover from any source, [including the Criminal Injuries Compensation Scheme (CICS)] for the same injury and all of your Public Sector Injury Benefits. The Injury Benefit Scheme's Regulations require that, when working out what we can pay you we offset (take off) any damages or compensation you recover from any source for the same injury or illness as you are claiming for here. It is Important that you understand this means your benefits will be reduced and, depending on the amounts involved, may mean that you are not entitled to any payment. Only where a loss of earnings (LOE) element is clearly identifiable and delineated in the settlement the Scheme's managers may, in certain circumstances, limit the amount to be offset to that amount. If we cannot identify a LOE element we will take off the whole of the damages/compensation recovered.

If you have made or are making a claim for compensation or damages please tell us here about the solicitor who is or has represented you.

Important! You must read the declaration very carefully and make sure that you understand what it means before you sign it.

Q8. We also have to take into account any payment received from a Personal or Private Pension, as well as the Isle of Man Government Unified Scheme 2011 (Unified Scheme) when calculating what you can receive from the Injury Benefit Scheme. If you are not a member of the Unified Scheme, or have any separate top-up arrangements, it is important that you tell us about any Personal or Private Pension arrangements that you have to avoid any overpayments that you would have to repay.

Q9. Applicants often have other conditions not related to their work that they are not claiming for or that we cannot take into account when considering your claim. It is important that you tell us exactly which injury or disease you are claiming for is wholly or mainly attributable to your employment and has caused a permanent reduction in your earning ability.

Q10. Tell us, in your own words, as much as possible about what you think caused your injury or disease, why you think it is related to your job, what has changed since the accident/incident and how it has affected your working/personal life. Continue on the spare sheets at the back of the form if necessary.

Q11. We sometimes need to request more, or more up-to-date, information from your treating doctors. So it important that you tell us the names and hospital addresses of all the doctors you have consulted about the injury or disease you are claiming for and your GP.

Q12. So that we are sure we have received everything you intended to send us, please list all the additional documents, such as medical, investigation or accident reports that you have sent us in support of your claim. Continue on a separate sheet if you need to.

Q13. **Declaration & Consent**

Please make sure that you sign the 'declarations' on page 9, 12 and the 'consent' on page 14 of the application form. We cannot process your application without it.

You have now completed your action on this application form. Please check it and then you can either ask your employer to send everything to us, or you can send it to us yourself at the address below:

PSPA Administrators (Injury)

1-4 Goldie House

Goldie Terrace

Douglas

ISLE OF MAN

IM1 1EB