

# Public Sector Pensions Authority

## Guide to the Public Sector Injury Benefit Scheme 2015

July 2017



**Isle of Man**  
Government

*Reiltys Ellan Vannin*

## Purpose of this Guide

The purpose of this guide is to provide general information on the provisions of the Public Sector Injury Benefit Scheme 2015 (‘the Injury Benefit Scheme’).

It comprises of 5 sections

Section	Title	Page Number
Section 1	Introduction	3
Section 2	Injury Benefits	5
Section 3	Applications	11
Section 4	Determinations	12
Section 5	General Information	14

## Disclaimer

This document is a guide only and does not represent any entitlement to the benefits described.

Whilst the Isle of Man Government has every intention to maintain the Public Sector Injury Benefit Scheme 2015 in a form as described in this guide, it reserves the right to modify, amend or terminate the Public Sector Injury Benefit Scheme 2015 at any time in the future.

The definitive terms governing the injury benefits are contained in the regulations. In the event of any conflict between this guide and those documents, the legal documents (as amended from time to time by the Isle of Man Government) will prevail.

The PSPA will not accept any responsibility for any errors, omissions or inaccuracies.

## Section 1 - Introduction

### Introduction to the Public Sector Injury Benefit Scheme 2015 (“the Injury Benefit Scheme”)

Injury Benefits under the Injury Benefit Scheme are available to public servants employed by the Isle of Man Government Employing Authorities who are (or eligible to be) participant members of the Isle of Man Government Unified Scheme.

There are very few exceptions and if you are unsure, ask PSPA Pension Administrators for advice.

The Injury Benefit Scheme is governed by its own Regulations. It is separate from the Isle of Man Unified Scheme 2011. A copy of the governing scheme can be found on the PSPA website at [www.pspa.im](http://www.pspa.im)

The Injury Benefits Scheme applies only to those injury benefit awards that are applied for and awarded on or after its introduction on 1 April 2015.

This guide is a general guide. It is not a full statement of the law which governs the Injury Benefit Scheme.

### Purpose and requirements of the Public Sector Injury Benefits Scheme 2015

The purpose of the Injury Benefit Scheme is to provide a top up to the annual income to a employee (subject to certain criteria) who suffers a permanent loss of earning ability and as a consequence of this may have their employment terminated or altered (change hours, re-graded to a lower grade).

The Scheme may also pay benefits to the dependants of an employee whose death has been caused by, or hastened by the duties of their job.

The Injury Benefit Scheme is a ‘no-blame’ income “top up” scheme intended to top-up income of successful applicants between 15% and up to a maximum of 85% of previous earnings.

The Injury Benefit Scheme does not protect extra payments such as ‘one-off’ bonuses or overtime. Neither is it intended to provide direct compensation for illness or injury.

Generally, the Injury Benefit Scheme requires that three criteria are satisfied:

1. the applicant must be/or had been employed as a public servant in the Isle of Man Public Service and be a member of, or eligible to be a member of the Isle of Man Government Unified Scheme, Superannuation Manual Workers No 1 Scheme or a Retained or Volunteer Fire-fighter.
2. The applicant must have suffered an injury or contracted a disease that is:-
  - a. Sustained in the course of their employment and which is wholly or mainly attributable to that employment, or

- b. Wholly or mainly attributable to the duties of that employment.
- 3. and; the applicant must have suffered termination or change of employment due to:
  - a. a permanent loss of earning ability in excess of 10% or
  - b. death, leaving a spouse, civil partner and or/dependants

There is no qualifying period, everyone is covered from the day they start employment.

### **Injury Benefits for those still in employment**

Following changes made in 2015, the PSPA's Injury Benefit arrangements no longer provide for temporary injury benefits for those who suffer a loss of earnings due to a work related injury and are still in employment but are on half sick pay or no sick pay. Employers may offer temporary injury benefits in these circumstances as part of employment terms and conditions and individuals should contact their employer or the Office of Human Resources (OHR) for more information.

## Section 2 – Injury Benefits

This section of the booklet is designed as a brief summary of the injury benefits available to applicants and their dependants.

### Your questions answered

#### What is injury benefit?

If an injury at work impairs your future earning ability and you have to give up your current post or work in a post with a lower salary, then an injury benefit can be paid to bring your income up to a guaranteed level.

If you are killed due to an injury sustained at work and while on duty, it may be paid to your dependants.

To be able to receive an injury benefit you will need to meet the qualifying criteria and the impairment to your future loss of earning ability will need to be assessed by the scheme's medical practitioner.

#### Who can get it?

Injury Benefits are paid to those who suffer a permanent loss of earning ability of more than 10% due to an injury contracted at work and who subsequently have to terminate their employment or reduce hours or work at a lower grade.

For those still in employment, who suffer a loss of income due to a work related injury – for example on half pay sick pay, then your employer may, as part of your Terms and Conditions of employment, offer a Temporary Injury Allowance (TIA). To find out more or to apply for a TIA, please contact your employer or the Office of Human Resources (OHR).

You may qualify for injury benefits if:

- you are currently employed or were previously employed by an employing authority who participates in the Isle of Man Government Unified Scheme; or
- you are a active member of the Isle of Man Government Unified Scheme or Superannuation Manual Workers No1 Scheme 1973;or
- a retained or volunteer fire-fighter

Please note that you are still covered even if you have opted out of pension arrangements. You may also qualify if you are employed on a limited term appointment or on a casual basis such as in a Bank or Relief post.

## How are injury benefits assessed?

Injury benefit is paid when it is deemed that you are suffering as a result of a qualifying injury, that is mainly or wholly attributable to your employment and was not as a result of your own negligence or misconduct.

Applicants may be required to undergo a medical assessment that will determine the rate at which future earning ability has been impaired by the injury.

Determining the permanent loss of earning ability involves looking at the applicant's pensionable pay when the employment ended or they moved to lower paid employment and then assessing their earnings ability since that time. Assessment of earning ability since the illness/injury is based on evaluation by the Scheme's occupational health advisers of the applicant's capability for work in the general field of employment.

Benefits may be awarded if the applicant has a successful claim, and these will be based on a percentage of the applicants pay when the employment ended or they moved to lower paid employment, the number of years worked for the public sector at that time, and the percentage level of permanent reduction in their earnings ability. The benefit table on page 8 shows how PIB is calculated for a specific case.

Please note that Injury benefit is paid to compensate for loss of future earnings and is not compensation for the loss of any mental or physical faculties, or for pain and suffering.

## Earning capacity

A qualifying injury can impair your future earning capacity if as a consequence, you are dismissed from your current job or you are down-graded or become re-employed at a lower rate of pay or you change to part-time hours. Impairment of earning capacity is assessed as a percentage. Please see the table on page 8.

## Qualifying injuries

You can only receive injury benefit if you have sustained a qualifying injury as defined in the Injury Benefit Scheme.

A qualifying injury includes the following:

- injury or death in the course of your official duty. This means an injury that is wholly or mainly attributable to the nature of your duty
- incapacity or death from an attack while off duty, but directly attributable to your being employed by the government;
- incapacity or death from a disease to which you were exposed solely, wholly or mainly by the nature of your duty;
- injury or death as a result of a disturbance abroad in an area where you were serving (provided you were recruited in the United Kingdom or Isle of Man);

- injury or death as the result of a terrorist attack or assault which is not in the course of your official duty but is directly attributable to your being employed in the public sector.

You will not qualify for injury benefit if your death or injury is unrelated to your employment or happens while you are:

- Travelling to and from work;
- During a main meal break;
- Working from home, unless the work is authorised by your employer and is solely, wholly or mainly attributable to the nature of your official duty);
- On special leave (whether paid or unpaid)
- At work, but not carrying out your duties e.g. sport, any form of entertainment, leisure activities or giving blood.

You will also be excluded from injury benefits if your injury or death is a result of your own negligence or misconduct.

For more information, ask your pensions administrator or refer to the Injury Benefit Scheme which can be found on the PSPA website at [www.pspa.im](http://www.pspa.im)

## What are the benefit levels?

### Injury Benefit

An Injury Benefit (IB) is available to employees who suffer a permanent reduction in their earning ability from employment of more than 10% because of an injury or disease wholly or mainly attributable to their employment. It is not payable if the permanent reduction in the employee's earning ability is assessed at 10% or less.

The Injury Benefit Scheme gives you a guaranteed level of income payable as an annual allowance, which is the percentage of your pay that you are guaranteed as an income from public funds. This is known as the Guaranteed Minimum Income (GMI).

The level of benefit that is paid is dependant of the length of service and the amount of permanent reduction in your earning ability. Please refer to the table on Page 8 to see how the Guaranteed Minimum Income (GMI) is calculated.

In assessing the amount of injury benefit payable, your pension's administrator will take into account any payment that you are receiving from public funds. This includes public service pensions and any state benefits that you are receiving related to the injury. In all cases, the PSPA will check with Social Security Division for confirmation of any state benefits in payment.

No annual allowance will be payable if your total income is more than the Guaranteed Minimum Income.

The IB will be paid until you return to employment or regains your earning capacity, in all cases the IB will stop when you reach your State Pension Age.

Injury Benefits (IB) are calculated using the following table:

	<b>Guaranteed Minimum Income payable as an annual allowance</b>			
	<b>Proportion of pay</b>			
	<b>Length of Service or qualifying service if longer</b>			
<b>Impairment of Earning Capacity</b>	<b>Less than 5 years</b>	<b>5 years and over but less than 15 years</b>	<b>15 years and over but less than 25 years</b>	<b>25 years or more</b>
<b>Slight Impairment (more than 10% but not more than 25%)</b>	15%	30%	45%	60%
<b>Impairment (more than 25% but not more than 50%)</b>	40%	50%	60%	70%
<b>Material Impairment (more than 50% but not more than 75%)</b>	65%	70%	75%	80%
<b>Total Impairment (more than 75%)</b>	85%	85%	85%	85%

### Example of Guaranteed Minimum Income (GMI)

If the permanent reduction in earning capacity is assessed as "Impairment" (30%) and the employee has 23 years employment and a pre injury pay of £30,000 the GMI would be calculated as:

$$£30,000 \times 60\% = £18,000 \text{ per year}$$

If the member was in receipt of a public sector pension and or certain state benefits related to the injury, then the GMI of £18,000 would be reduced to take these into account. The balance that would be paid until the person reaches their state pension age is the Injury Benefit. If the total of the pension and state benefits exceed the GMI of £18,000 then no IB would be due.

Part-time service will count on the basis of hours worked and how much the injury has impaired earning capacity.



## Death Benefits

Death Benefits are paid to surviving dependants if an employee dies as a result of an injury or disease wholly or mainly attributable to their employment. These allowances are intended to top up payments such as a widow's, widower's, or dependant's pension. The income provided is a percentage of the employee's pay.

## Injury Benefit Lump Sum

In addition to an Injury Benefit there is also a lump sum payable. Like the Injury Benefit the lump sum is based on a percentage of your pay. The percentage is decided according to your impairment of earning capacity.

<b>Impairment of Earning Capacity</b>	<b>Proportion of pensionable pay</b>
Slight Impairment	12.5%
Impairment	25%
Material Impairment	37.5%
Total Impairment	50%

## How long is an Injury Benefit paid for?

A recipient's continued entitlement to an injury benefit will be reviewed against the qualifying criteria, as the PSPA and their medical advisers deem appropriate.

In all cases the injury benefit will cease when the recipient reaches their state pension age (SPA).

## Dependents Benefits

If you die as a direct result of a qualifying injury the annual allowance and lump sum may be paid to your Surviving Adult Dependand (widow, widower, surviving civil or nominated partner) and any eligible Children.

The level of benefits they would receive would also be a percentage of your pay.

## Special Cases

An augmented award can be paid to the surviving spouse, civil or nominated partner of a fire-fighter who dies as a result of a qualifying injury and –

"the injury was received in the execution of duties performed, in circumstances in which there was an intrinsic likelihood of his/her receiving a fatal injury, for the immediate purpose of saving the life of another person or preventing loss of human life"

The PSPA can allow payment of the augmented award if they believe the terms of the above definition may have been met, or if they believe that the injury was received in circumstances where it would be inequitable not to pay it.

### **Can I appeal against the decision not to award benefit or the level awarded?**

Yes, you can appeal via the PSPA's Internal Dispute Resolution procedures. A copy of the procedures can be obtained from the pensions administrator or from the About Us pages on the website at [www.pspa.im](http://www.pspa.im)

### **Can I claim damages?**

Injury benefit is paid on a no fault basis. That means you can receive it whether or not there is negligence on the part of your employer in connection with your injury.

Receiving injury benefit does not interfere with your right to sue your employer. However if you receive damages, your administrator may offset the amount of injury benefit that you have received against these.

### **Will my injury benefit change?**

All Injury Benefits awarded under this Injury Benefits Scheme will be subject to regular review, as such intervals as the PSPA think fit. Such reviews will consider whether the degree of the impairment of earning capacity has substantially altered. If it has, then the injury benefit will be reassessed and the level of injury benefit will be adjusted accordingly.

In all cases the injury benefit will cease when the recipient reaches their state pension age (SPA).

## Section 3 - Applications

### How to apply for an Injury Award

An application form to apply for an Injury Benefit under the Public Sector Injury Benefit Scheme 2015 can be found on the PSPA website at [www.pspa.im](http://www.pspa.im)

Applications must be completed in full by both the applicant and their employer.

Whilst employers can express an opinion as to an individual's entitlement to a injury benefit they cannot deny an individual's right to apply for an injury benefit.

Applications can be completed whilst an employee is still employed, but the outcome cannot normally be decided until they have left their employment or moved to a lower paid job.

As part of the Injury Benefit claim, employers will be asked to provide to the PSPA information on:

- the injuries sustained or the disease contracted (ie the condition) by the applicant, its treatment and prognosis.
- how it is connected to their public sector duties (ie what caused it).
- how or whether the condition has caused a permanent reduction in earning ability.

Employers must also provide:

- 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.

Applicants are required to provide, on the application form, a statement explaining what happened, details of the illness/injury sustained and its effect on their ability to work and carry out daily activities. They are asked to check the information provided on the form by their employer and any other accompanying documentation, and to provide copies of all documents or reports in their possession that relate to their claim. These might include things like accident book records, Social Security accident declarations or medical assessment papers, witness statements, GP or hospital records, compensation claims and any other evidence they think might be useful in supporting their claim.

Not all applications will result in benefits being awarded.

**Important Note** – It is the applicant's responsibility, not the PSPA's, to provide information and evidence to support a claim. Failure to provide any of the information required in the application form may result in a delayed decision.

## Section 4 – Determinations

### Determination of Awards

The PSPA is responsible for the decision as to entitlement of awards from applications made to the Public Sector Injury Benefit Scheme 2015 and upon receipt of an Injury Benefit application, the PSPA will first consider if the application meets the entitlement criteria for an Injury Award and if it does it will refer the application to its Medical Advisers if appropriate.

In all assessment and determinations of injury benefit claims, the PSPA will take advice on medical matters from its Medical Advisers.

To ensure all injury benefit determinations and assessments are carried out in an objective and impartial manner, the PSPA has appointed a panel of independent professionally qualified and experienced occupational health physicians, who also will have access to any specialist input/advice as they deem necessary.

The application form and supporting material will be passed to the scheme's medical advisers who will assess the existence and effect of the injury or disease on the applicant's work. During this process the applicant may be asked for additional information/evidence which may include examination by an independent medical expert or functional analyst. The scheme administrators advised by their medical advisers will then decide whether the injury or disease claimed for is wholly or mainly attributable to the duties of the applicant's employment and they will then be told if they have a successful claim for injury benefits.

If it is agreed that the applicant's condition is wholly or mainly attributable to their duties, the claim will go forward for assessment of the degree of 'permanent loss of earning capacity', which in turn will determine the level of benefit payable. If this is 10% or less, an injury benefit will not be payable. This does not mean injury benefit will never be payable: if the applicant's condition deteriorates further and with it their earning ability, they can contact the PSPA for a review of their claim.

Determining the permanent loss of earning ability involves looking at the applicant's earnings at the time the loss of earnings or earnings ability took place, and then assessing their earnings ability since that time. Assessment of earning ability since the illness/injury is based on evaluation by the Scheme's occupational health advisers of the applicant's capability for work in the general field of employment.

If the applicant's claim for injury has progressed to the stage where a permanent loss of earning ability has been established, the PSPA will then work out the injury benefit applicable to their case. How they do this is explained on page 8. Any payments awarded will usually be backdated to the start of the reduction in earnings or earnings ability, usually the termination of employment.

### Timing

From receipt of a completed application form the PSPA will endeavour to make a determination between 1-2 months. However, in some cases, especially where further medical information is sought the timescale will be extended.

### **Notification of Decision**

The PSPA or its medical advisers will keep both the applicant and their employer informed of progress of all stages of processing the application. On completion they will issue a formal decision letter to both.

Applicants who are dissatisfied with the outcome of their claim have a right of appeal, which will be fully explained at the time.

### **Rights of Appeal**

Where the application is unsuccessful the PSPA will provide the applicant with an explanation of how the decision was reached and details of appeal opportunities.

## Section 5 – General Information

### Payments of Awards

#### Permanent Injury Awards (PIB)

PIB will be paid from the Public Sector Injury Benefit Scheme 2015.

Any payments awarded will usually be backdated to the start of the reduction in earnings or earnings ability, usually the termination of employment.

Payments will be made in 12 equal monthly instalments on behalf of the PSPA, by Treasury Pension Payroll on the 25<sup>th</sup> of each month.

Any lump sums will be paid directly to the individual.

Annual pensions increase will be applied every April to injury awards to help them keep pace with inflation.

#### Damages and Compensation

If the applicant gets damages and compensation for the injury, these will be taken into account when the level of Injury Benefits awarded is assessed.

This may mean paying back some or all of the Injury Benefits received where compensation has also been received for the same injury. It may also reduce any future Injury Benefits.

If the applicant is claiming damages or compensation they should notify their legal advisor that they are claiming Injury Benefits and draw their attention to the Scheme Regulations.

Anyone claiming Injury Benefits must inform the PSPA as soon as their damages (or compensation) claim is settled.

#### Regulations

The Public Sector Injury Benefit Scheme 2015 is governed by its own Regulations, a copy of which can be viewed on the PSPA website at [www.pspa.im](http://www.pspa.im)

It is separate to the Isle of Man Government Unified Scheme 2011.

## Contacts

If you have any questions regarding the Injury Benefits Scheme, you can contact the administration team at the PSPA at:

PSPA, Injury Benefits,  
Prospect House, 27-29 Prospect Hill,  
Douglas  
ISLE OF MAN  
IM1 1ET

You can telephone them on 01624 685598.

You can email to [pensions@pspa.im](mailto:pensions@pspa.im)

It is recommended that you email your enquiry whenever possible to ensure that you have a record of your enquiry and the response

Further information can be found on the PSPA website at [www.pspa.im](http://www.pspa.im)

## Disclaimer

This document is a guide only and does not represent any entitlement to the benefits described.

Whilst the Isle of Man Government has every intention to maintain the Public Sector Injury Benefit Scheme 2015 in a form as described in this guide, it reserves the right to modify, amend or terminate the Public Sector Injury Benefit Scheme 2015 at any time in the future.

The definitive terms governing the injury benefits are contained in the regulations. In the event of any conflict between this guide and those documents, the legal documents (as amended from time to time by the Isle of Man Government) will prevail.