

Reference No: E109/32/67; Date: 10/06/75

**Circular 25/1975:- Social Welfare (Occupational Injuries) Act, 1966 Benefits and their effect on Sick Pay entitlement.**

A Dhuine Uasail,

I am directed by the Minister for the Public Service to refer to the introduction, under the Social Welfare (Occupational Injuries) Act, 1966 and with effect from 1st May, 1967, of a State-administered insurance scheme in respect of occupational injuries and diseases.

Departments will already be aware, from the contribution arrangements which apply, that established officers are only partially covered by the scheme whereas other insurable staff are fully covered by it.

**A. FULL BENEFITS ETC**

**Conditions of Benefit**

2. Under the scheme benefits as set out hereunder are payable to insured employees, by the Department of Social Welfare, through extensions of the social insurance system, in respect of personal injury caused by accident arising out of, and in the course of, employment and in respect of a prescribed disease or personal injury not so caused but due to the nature of the employment. Benefits are payable in respect of accidents or diseases which occur outside the State in accordance with the Social Welfare (Modifications of Insurance) (Amendment) Regulations, 1967 and 1968.

The accident or disease must have occurred on or after 1 May, 1967.

There are no contribution conditions for benefit. Benefit is payable in respect of employed persons under 16 even though contributions are not payable for them.

Apart from injury benefit and medical care costs, benefits are not payable for periods of less than a week.

**Injury Benefit**

3. Injury benefit is payable in respect of any day on which, as a result of the injury or disease, the employee is incapable of work during a period of 156 days (Sundays being disregarded) beginning with the day of the accident or the development of the disease.

Injury benefit is payable at the following standard rates:

	Weekly Rate
(a) A man or woman not covered by (b) or (c) below	£13.10
(b) A married woman dependent on her husband	£10.20
(c) A person under 18 not entitled to an increase for a dependent	£10.20

Reduced benefit is payable to a part-time employee who is under 16 years of age.

The following increases on the standard rates are payable in respect of dependents of the employees

	Weekly Rate
An adult dependent	£6.10
First qualified child	£2.65

Second qualified child	£2.65
Each other qualified child	£2.20

The increase in benefit in respect of an adult dependent is subject to the same conditions as apply to the corresponding increase applicable to disability benefit (2nd and 3rd subparagraphs of paragraph 2 of Department of Finance Circular 2/53).

The increase in benefit in respect of a qualified child is payable for any period during which the insured employee is paid injury benefit and has one child, or more, who is ordinarily resident in the State with him and who is under 18 years of age.

The amount payable by way of injury benefit for any day of incapacity is 1/6th the appropriate weekly rate.

Injury benefit is not payable in respect of the first three days of incapacity unless, as a result of the injury or disease, the employee is incapable of work, during the period of 156 days referred to, on not less than twelve days (excluding Sundays). Where two or more accidents or diseases occur at intervals not greater than 13 weeks as a result of each of which the employee is incapable of work within 156 days (excluding Sundays) of the accident or disease, days of incapacity may be aggregated towards the twelve days referred to in the preceding sentence.

#### Pay-Related Benefit

Under the provisions of the Social Welfare (Pay-Related Benefit) Act, 1973, and with effect from 8 April, 1974, pay-related benefit is payable with injury benefit under the occupational injuries scheme, provided that the claimant is otherwise entitled to disability benefit under the general social insurance scheme. Payment of pay-related benefit is not normally made for the first fortnight of incapacity for work. However, if there was a claim to unemployment benefit, disability benefit, injury benefit or maternity allowance in the preceding thirteen weeks, payment of pay-related benefit may commence sooner; where, for example, the previous claim lasted two weeks pay-related benefit will commence from the first day of the new claim.

Persons eligible for pay-related benefit are those insured persons who are liable for pay-related contributions and whose reckonable earnings (i.e. the person's gross taxable earnings in a previous income-tax year - the year 1973/74 is currently being applied) are over £14 a week. Payment of pay-related benefit may continue for up to 37½ weeks (225 days) provided the relevant flat-rate benefit (e.g. injury benefit) is also payable.

There is no need to make a separate claim for pay-related benefit. When claiming any of the benefits referred to, including injury benefit, the claimant should give his income tax serial number. The amount of benefit is calculated on the gross taxable earnings items is 40% which, in addition to normal salary or wages, include such as overtime, bonuses, sick pay etc. The amount of benefit of reckonable earnings between £14 and £50. Reckonable weekly earnings under £14 or over £50 are not taken into account. Reckonable weekly earnings are determined by dividing the gross annual earnings by 50.

#### Example of benefit calculations:-

Gross taxable earnings		£2,000.00
Reckonable weekly earnings (2000+50)	£40.00	
Deduct first £14		£26.00
Pay-related benefit ( £26 at 40p in £ )		£10.40

The pay-related benefit is paid in addition to flat-rate benefit. The combined total of both benefits may not, however, exceed a person's reckonable weekly earnings. Payment of pay-related benefit is not affected by the pre-accident earnings limit, to which reference is made in paragraph 9. Pay-related contributions,

which are payable by the employer and the employee, are payable on earnings up to a ceiling of £2,500 a year. They are not payable on that part (if any) of earnings above that ceiling.

#### Disablement Benefit

4. Disablement benefit is payable to an employee for loss of physical or mental faculty including disfigurement, assessed by the Department of Social Welfare at 1% or more, which results from an occupational injury or disease. The benefit is payable irrespective of whether or not the employee is incapable of work.

Disablement benefit is payable from the fourth day following the occurrence of the accident or disease if the employee is not rendered incapable of work thereby. Otherwise, it is payable when injury benefit ceases, in which case it is payable with disability benefit, if the employee is still incapacitated and entitled to disability benefit. Where an employee who was incapacitated as a result of an accident or disease resumes work within the injury benefit period of 156 days and is then awarded disablement benefit he is not entitled to claim further injury benefit in respect of the same accident or disease.

Assessment of disablement by the Department of Social Welfare is made on a percentage basis and each assessment specifies the period in respect of which the benefit is payable and whether the assessment is provisional or final.

Where the extent of the disablement assessed is less than 20% disablement benefit takes the form of a gratuity not exceeding £900. Where the loss of faculty is permanent or will last for more than seven years the gratuity may be converted into a pension for the period of assessment, in accordance with a prescribed scale.

Where the extent of disablement is assessed as amounting to 20% or more, disablement benefit is a pension for the period concerned at the following weekly standard rates:

Degree of disablement	Weekly Rates	
	A £	B £
100 per cent	13.10	10.20
90 per cent	11.79	9.18
80 per cent	10.48	8.16
70 per cent	9.17	7.14
60 per cent	7.86	6.12
50 per cent	6.55	5.10
40 per cent	5.24	4.08
30 per cent	3.93	3.06
20 per cent	2.62	2.04

Rate A and B preceding apply as follows:-

- (a) a man or woman not covered by (b) or (c) below
- (b) a married woman dependent on her husband
- (c) a person under 18 not entitled to an increase for a dependent

Increases in disablement pension are payable in respect of

(i) unemployability, that is where the employee, on a result of the relevant loss of faculty, is incapable of work or of earning more than £234 in a year and is likely to remain permanently so incapable (and is not entitled to disability benefit) the rates are:-

A - £9.40  
B - £8.20

increases for adult and child dependants are also payable with unemployability supplement on the same basis as applies to injury benefit;

(ii) the necessity for constant attendance, that is where an employee is in receipt of a disablement pension on in respect of an assessment of 100% disablement and as a result of the relevant loss of faculty requires constant attendance; the rates are up to £4.95 or, exceptionally, £10.00 a week.

(iii) treatment, as an in-patient in a hospital or other institution, relevant to the injury or loss of faculty; the addition consists of the disablement pension being increased to 100% during the period of the treatment, Increases for adult and child dependants are also payable with this supplement on the same basis as applies to injury benefit.

#### Death Benefits

5. Death benefits are payable in respect of a wife, dependent husband, dependent parents and/or children of an employee who dies as a result of an occupational injury or disease.

The benefits are as follows:-

Widows A pension of £12.30 a week which ceases if the widow remarries.

Widowers A pension of £12.30 a week if at the time of the employee's death the recipient was incapable of self-support by reason of some physical or mental infirmity and likely to remain permanently so incapable. Otherwise benefit is a gratuity of £639. A pension payable to a widower terminates if he ceases to be incapable of self-support.

Death benefit pensions payable to widows and widowers are increased for qualified children under 18 years and those between 18 and 21 years who are receiving full time education. The current rate of increase for each child is £3.15 a week.

#### Parents

Father A pension of £15.45 a week, or £12.30 a week where the deceased was not a married person and the recipient was, at the time of the employee's death, incapable of self-support by reason of some physical or mental infirmity and likely to remain permanently so incapable. A pension payable to a father at the £12.30 rate is reduced to the £5.45 rate if he ceases to be incapable of self-support.

Mother A pension of £5.45 a week, or £12.30 a week where the deceased was not a married person and the recipient is a widow or the deceased's father is not entitled to a pension of £12.30 a week; pension ceases on the recipient's remarriage.

Orphaned children or stepchildren Pension at the weekly rate of £7.35.

Death benefit by way of funeral grant of up to £100 is also available.

#### Medical care

6. Provision is also made for payments in respect of the cost of medical care incurred as a result of an occupational injury or disease. Payment is limited to the amount for which the employee is liable after

he has availed himself of his rights under the Health, Mental Treatment and Social Welfare Acts. If, however, the employee is entitled to free in-patient hospital treatment but elects to avail of private or semi-private accommodation, he will be required to pay the extra cost himself.

#### Effect on Disability Benefit

7. Disability benefit to which an employee may be entitled under the general social insurance system is not payable with injury benefit, nor with unemployment supplement to disablement pension.

#### Procedure

8. As soon as is practicable thereafter, notice of an accident must be given to the employer by the employee, or someone acting on his behalf, giving the employee's name and location, the date and time of the accident, the place where the accident happened, and the cause and nature of the injury. The name and location of a person who gives notice on behalf of another must also be given. The employer then has to investigate the circumstances of the accident and record any discrepancy between his findings and the circumstances as reported to him.

Employers are required to furnish information, when requested, to the Department of Social Welfare, on accidents or diseases for which benefit is claimed and on remuneration paid in respect of employments which give rise to claims for benefit.

Claims for benefit are made by the employee, or his dependent(s) direct to the Department of Social Welfare. In order to initiate a claim for injury benefit, an employee who becomes incapable of work as a result of an occupational accident or disease should obtain a medical certificate from his doctor or hospital on form MCI or MCIA, complete the form and send it to the Department of Social Welfare. A form on which to claim the benefit will then be forwarded to the applicant.

Forms for claiming disablement and death benefits and the cost of medical care can be obtained from the Occupational Injuries Branch, Department of Social Welfare, Aras Mhic Dhiarmada, Dublin 1.

Where an employee considers that an accident may give rise to a future claim for benefit he can safeguard his right to benefit by applying for a declaration that the accident was an occupational one. The application form for this purpose may be obtained from the Department of Social Welfare. The application should be made as soon as possible after the accident, so that the question may be decided while the facts are fresh.

Payments of benefit are made direct to the employee.

#### Limits on payment of benefit

9. An employee is not, for the same period, allowed benefit in respect of injuries sustained in more than one accident or disease at a higher rate than if the injuries had been caused by one accident or disease.

Payments of injury benefit, or disablement pension with any supplements thereto or with disability benefit, may not exceed the employee's weekly earnings at the time of the relevant accident, calculated as at that time for a full-time employee, overtime being disregarded. In the case of disablement pension, however, benefit reduced because of pre-accident earnings may be increased in the light of wage increases subsequently granted in the relevant employment.

#### Workmen's Compensation

10. The Workmen's Compensation Acts continue to apply in relation to accidents which occurred and diseases which were contracted before 1st May, 1967, and compensation continues to be payable at the old rates by employee in relation to such accidents or diseases.

Prior to 1 May, 1967, persons in receipt of payments of workmen's compensation were entitled to disability benefit only to the extent that the benefit was greater than the weekly compensation, no disability benefit being payable if the weekly compensation was greater than the rate of benefit. Subject to pre-accident earnings not being exceeded, this limitation on the payment of disability benefit no longer operates in the case of a recipient of workmen's compensation who

(i) fulfils the ordinary requirements for the receipt of disability benefit (i.e. is incapable of work and satisfies the contribution conditions) and

(ii) where more than six months have elapsed since the date of the accident or development of the disease in respect of which the person became entitled to workmen's compensation.

Where a person is, or has been, on or after 1 October, 1965, entitled to weekly payments of workmen's compensation and would, if the accident or disease had occurred after 1 May, 1967, be entitled to unemployability or constant attendance supplement to disablement pension, such supplement will be payable to him by the Department of Social Welfare subject to pre-accident earnings not being exceeded. Unemployability supplement cannot, however, be paid with disability benefit and vice versa.

The additions to workmen's compensation referred to in this section must be claimed by employees. Where appropriate, employees should be told to make such claims and contact should be maintained with the Department of Social Welfare with a view to ascertaining when payment of the additions takes effect.

#### Effect of Occupational Injuries Insurance Contributions

11. Contributions paid under the occupational injuries scheme do not qualify or requalify any person for other benefits under the Social Welfare Acts. Occupational injuries insurance is disregarded in determining a person's right to become or remain a voluntary contributor.

#### B. BENEFITS - ESTABLISHED OFFICERS

12. Established officers are eligible for reduced benefits only from the Department of Social Welfare, on the following basis (see, however, the first subparagraph of paragraph 14):-

(a) injury Benefit is not payable in any circumstance;

(b) pay-related benefit is not payable in any circumstances;

(c) disablement benefit is not payable for the 26-week period following the date of the relevant accident or the development of the relevant disease and is payable at half-rate only thereafter, including those cases in which the beneficiary is receiving approved hospital treatment;

(d) the increases of disablement pension by way of unemployability supplement, constant attendance allowance, or in respect of adult or child dependants where the recipient of disablement benefit is receiving an unemployability supplement or approved hospital treatment, are payable in full;

(e) death benefits are payable in full;

(f) the cost of medical care incurred in the 26-week period following the relevant accident or disease is not met but the cost of such care required thereafter is payable in accordance with the provisions of the scheme.

The provisions at 10 above will, where appropriate, apply to established officers whose cases fall to be dealt with under the Workmen's Compensation Acts.

## C SICK PAY

### Staff other than established officers

13. Deductions from the sick pay entitlement of staff other than established officers during incapacity related to an occupational injury or disease should be made in respect of any occupational injury benefit plus pay-related benefit payable for the period, other than that related to the cost of medical care. The deductions should be made in the same manner and subject to the same deferment arrangements, etc., suitably modified, as at present apply in relation to disability benefit. The amount of any award made by the Department of Social Welfare for staff in this category will be notified to the employee's Department on request.

Where an officer is entitled to a disablement pension and/or a death benefit pension while fully employed and becomes incapacitated due to illness unrelated to an occupational injury or disease, the deduction from sick pay should consist of disability benefit only, if he is entitled to this.

### Established Officers

14. The decision to have established officers only partially covered by the scheme was taken on the basis that separate arrangements would be made to supplement, as necessary, the reduced benefits which would be payable to them by the Department of Social Welfare, or on their sick pay entitlement, so as to ensure that the aggregate payments to them would not be less than that to which they would be entitled if they were fully covered by the scheme. On this basis the following arrangements will apply in relation to them.

When an established officer suffers an apparent occupational injury or disease he should immediately report it to his Department giving the relevant details as to the circumstances of the accident and his position in relation to adult and child dependents. The Department should then investigate the accident etc. as provided for at 8 above.

If the officer is incapacitated as a result of the accident or disease and the full rate of benefit (including disability benefit) available in similar circumstances under the scheme is at any time more favourable to him than his sick pay entitlement, the equivalent of the full rate of benefit will be payable to him subject in all other respects to the same conditions as apply to normal sick pay, his Department making up the balance over and above any benefit payable by the Department of Social Welfare. Where sick pay is more favourable it should issue but a deduction should be made from it in respect of any benefit payable to the officer by the Department of Social Welfare in respect of the relevant accident or disease. (As indicated at 12 above no benefit is payable by the Department of Social Welfare to an incapacitated officer in the first six months following an accident or disease.)

If, while he is incapacitated as a result of an occupational injury or disease, an officer is entitled to sick leave with full pay he may normally be paid accordingly without reference to his entitlement to benefit under the scheme. If, however,

(a) his incapacity or a residual disablement is likely to last beyond the period of six months following the occurrence of the accident or disease or

(b) at any time during the six months he ceases to be entitled to sick leave with full pay and it is likely that the full rate of benefit available in similar circumstances under the scheme would be more favourable to him he should apply to the Department of Social Welfare for a declaration that his accident or disease was of an occupational nature.

The Department of Social Welfare will then issue a declaration that the accident, disease or injury was of an occupational nature for the purposes of the scheme, if this is so. It will also, on request, advise the Department concerned as to the appropriate rate of benefit and period for which it would be payable if the civil servant had been insured for the full benefits of the scheme and for disability benefit and indicate in due course, how much, if any, benefit on the reduced basis will be payable by it to the employee.

The Officer's sick pay entitlement may, at the discretion of the Head of the Department, issue pending notification of the Department of Social Welfare declaration, etc., after which any necessary adjustments should be made.

Where, following an occupational accident or disease, the officer remains at, or resumes, work and is, or has been awarded a disablement pension or gratuity his own Department will pay, in addition to full pay, the difference between the full rate of pension or gratuity notified by the Department of Social Welfare and that actually payable by that Department.

If the degree of disablement attributable to an occupational accident or disease is assessed in any case as permanent, no further payment on a foot of disablement or the equivalent of disability benefit should be made by the officer's Department after the date of such assessment and the case should be referred to the Minister for the Public Service who will arrange for payment of the equivalent of any disability benefit and half of the disablement benefit payable.

Where an established officer retires on grounds of ill health due to an occupational accident or disease the equivalent of disability benefit will be payable only to the extent that it exceeds the amount of civil service pension awarded.

Death benefits may be claimed direct from the Department of Social Welfare by the wife and/or dependents of an Officer, who dies as a result of an occupational injury or disease, on the same basis as applies to other insurable staff.

Claims in respect of the cost of medical care incurred by an established officer as a result of an occupational injury or disease should be submitted to this Department which will arrange, in consultation with the Department of Social welfare, for payment on the basis which would apply if the officer were fully covered by the scheme claims in respect of the cost of medical care incurred after the 26 week period immediately following the accident or disease will be the sole responsibility of the Department of Social Welfare.

Where an established officer who is entitled to a disablement and/or a death benefit pension while fully employed is absent on sick leave not related to an occupational injury or disease such pension(s) will be payable in addition to sick pay entitlement.

#### Workmen's Compensation

15. Allowance should be made, as appropriate, for the additions to workmens compensation referred to at 10 above in applying the existing arrangement whereby officers are allowed workmen's compensation or sick pay whichever is the more favourable. For this purpose established officers should be regarded as insured for disability benefit. Where sick pay issues as being more favourable, a deduction should be made front it in respect of any workmen's compensation additions paid by the Department of Social Welfare to the employee.



Where an established officer who is in receipt of workmen's compensation retires on grounds of ill-health the equivalent of disability benefit, where otherwise payable, will be paid only to the extent that it exceeds the amount of civil service pension awarded.

#### "Ordinary" Sick Leave Calculations

16. Where in the case of an established officer the inclusion in a sick leave calculation of a period of leave due to an occupational injury or disease for which sick pay was granted as being more favourable than benefit under the occupational injuries scheme or workmen's compensation, where applicable, would have the effect of reducing the rate of sick pay for a subsequent absence on account of ordinary illness below the amount of benefit or compensation originally in question, sick pay may be allowed at a rate equivalent to the rate of benefit or compensation for a period not exceeding the period for which sick pay in lieu of benefit or compensation was drawn during the first absence.

In the case of an unestablished officer, where inclusion in a sick leave calculation of a period of illness due to an occupational injury or disease for which full pay inclusive of workmen's compensation, or full pay less occupational injury benefit or supplements to workmen's compensation by the Department of Social Welfare, issued would have the effect of putting the officer outside sick pay entitlement when absent due to ordinary illness, his Department may make an ex-gratia payment, by way of addition to disability benefit or otherwise, sufficient to bring his income (including disability benefit) up to the equivalent of the occupational injury benefit or workmen's compensation (including supplements) originally in question, for a period not exceeding the period of full pay referred to.

Where the reckoning of a period of leave due to an occupational injury or disease in a sick leave calculation adversely affects an officer's sick pay entitlement in respect of a subsequent absence due to ordinary illness and the officer claims that the injury or disease was due to negligence on the part of the State and that, therefore, the resulting sick leave should not reckon against his ordinary entitlement, the case should be submitted to this Department.

#### D. GENERAL

17. All officers of your Department responsible for adjusting sick pay in respect of benefit under the Act must acquaint themselves in detail with its relevant provisions (including Regulations). Any point of doubt or difficulty regarding benefits should be referred to the Department of Social Welfare for direction, pending receipt of which, deductions in respect of benefit should be made provisionally and, when the rate of benefit is in doubt, the deduction should be at the higher rate.

18. Departments will be expected to maintain periodic contact with the Department of Social Welfare in relation to any case they may have on hands with a view to dealing correctly with it.

19. Any cases of difficulty relating to the effect of the benefits on sick pay should be submitted to this Department in writing.

20. The special arrangements applying to established officers should be brought to their attention. Unestablished officers should be reminded of their entitlement under the Act in the event of apparent occupational injuries or diseases.

21. The rates of benefit given in this circular are those applying at the date of issue of the circular. Departments will be informed about any changes that may occur in these rates from time to time.

Mise le meas  
J. Mc Gartoll