



THOMPSONS
SOLICITORS

STANDING UP FOR YOU

State benefits following
an accident or industrial
disease

Our pledge to you

Thompsons Solicitors has been standing up for the injured and mistreated since Harry Thompson founded the firm in 1921. We have fought for millions of people, won countless landmark cases and secured key legal reforms.

We have more experience of winning personal injury and employment claims than any other firm – and we use that experience solely for the injured and mistreated.

Thompsons will stand up for you by:

Staying true to our principles – regardless of how difficult our job is made by government, employers or the insurance industry

Remaining committed to the trade union movement, working closely with them and with professional associations for the benefit of working people everywhere

Thompsons pledge that we will:

Work solely for the injured or mistreated

Refuse to represent insurance companies and employers

Invest our specialist expertise in each and every case

Fight for the maximum compensation in the shortest possible time

standing up for you

Contents

Introduction	5
Benefits Cap	6
Statutory Sick Pay	6
Employment and Support Allowance	7
Industrial Injuries Disablement Benefit	8
Personal Independence Payment	9
Benefits Payable on Loss of Employment	10
Benefits on Death of Spouse	11
Other Benefit Payments	12
Dust Related Diseases	13
Effect of State Benefits on Compensation Payments	13
The Compensation Recovery Unit	15



The Spirit of Brotherhood
by Bernard Meadows

Introduction

This leaflet describes some of the benefits you can apply for if you are injured or contract an industrial disease and are unable to work.

There are a number of national telephone and text helplines which may be useful to obtain further information.

Disability Benefits Helpline:

(for those born on or before 8 April 1948)

Tel: 0345 605 6055

Text: 0345 604 5312

Personal Independence Payment Helpline:

Tel: 0345 850 3322

Text: 0345 601 6677

Disability Benefits Helpline:

(for those born after 8 April 1948)

Tel: 0345 712 3456

Text: 0345 722 4433

Tax Credits Helpline:

Tel: 0345 300 3900

Text: 0345 300 3909

Further information can be found at
www.gov.uk/browse/benefits



Benefits cap

Please note that there is a limit on the total amount of benefit that most people aged 16-24 can receive. Details are available at www.gov.uk/benefitcap

Statutory Sick Pay

Statutory Sick Pay (SSP) is paid to employees by their employer for up to 28 weeks if they are off sick from work.

To qualify for SSP you must be incapable of work for 4 or more days. A GP's fit note is normally required after 7 days absence.

It is important to tell your employer you are sick before their deadline or within 7 days if they do not have one.

SSP is payable at a fixed rate and is treated like other earnings. It is therefore subject to Tax and National Insurance but it is not means tested nor is it dependent on National Insurance contributions.

However, your earnings must at least equal the Lower Earnings Limit, which changes every year. Up-to-date rates can be found at www.gov.uk/topic/business-tax/pay

Your contract of employment may provide for payment of occupational sick pay over and above SSP, so it's worth checking whether it does.

Agency workers are entitled to SSP providing the above criteria are met.

Employment and Support Allowance

Employment and Support Allowance (ESA) is paid to anyone whose incapacity means they have to be off work for longer than 28 weeks.

ESA is made up of contributory and means-tested parts. To receive the contributory element of ESA the applicant must have paid sufficient National Insurance contributions or have sufficient credits, such as women who have stayed at home to look after children.

To receive the means-tested element of ESA an applicant is assessed financially and their level of savings and household income looked at. This element is payable even if an applicant does not have sufficient contributions or credits.

Applicants can receive either the contributory element or the means-tested element or both depending upon their contribution record, income and capital.

Applicants must have a Work Capacity Assessment while the claim is being processed.

Applicants will be expected to take appropriate steps to help prepare for work, including attending a series of work-focused interviews with a personal advisor.

Applicants with an illness or disability that is too severe to undertake any form of work related activity will get increased financial support and will not be expected to prepare for return to work.

Applicants with a terminal illness will have claims fast-tracked and will not be expected to participate in work focused health-related assessments.

The benefit is payable by Job Centre Plus and a claim can be made by telephoning – 0800 055 6688 (Textphone: 0800 023 4888).

Industrial Injuries Disablement Benefit

Industrial Injuries Disablement Benefit (IIDB) is payable if you are disabled as a result of an accident at work or a disease caused by a job.

To qualify you must (generally) establish:

1. You were employed
2. You suffered a personal injury in an industrial accident or are suffering from a prescribed industrial disease
3. As a consequence are 'disabled' and are defined as having at least 14% disablement

Disablement is assessed by comparison to a person of the same age and sex as yourself whose physical and mental condition is normal.

Jobcentre Plus has a list of diseases known to have a link to particular occupations and these are known as 'prescribed industrial diseases'.

IIDB is not means-tested, nor is it subject to National Insurance contributions. It does not affect any other national insurance benefit such as Incapacity Benefit or Retirement Pension. However, IIDB will affect income-related benefits that you or your partner receive such as Income Support, Housing Benefit and Council Tax Benefit.

Do not delay in claiming because IIDB cannot be paid for a period of 3 months before the date of your claim. However, you are not able to obtain the benefit for the first 90 days (not including Sundays) after your accident and you should therefore consider claiming 2 months after the accident.

The Jobcentre Plus medical will assess the percentage disablement. No payment will be made if the disability is less than 14%. Over 14%, the amount of benefit payable will depend upon the percentage disability.

If the assessment is less than 14%, providing it is registered at the time of assessment, it can be added to subsequent assessments in respect of further industrial accidents or disease. Even if each assessment is less than 14%, a payment of benefit will be triggered if, when added together, the assessments exceed 14%.

Awards of benefit are made for the period you are expected to continue to suffer from the relevant loss of faculty and can be made for an indefinite period.

Personal Independence Payment

This benefit is currently payable to those aged 16 to 64 who have a long-term health condition or disability and difficulties with activities related to daily living or mobility.

To be eligible you must have had the difficulties for 3 months and you must expect them to last at least 9 months (unless you are terminally ill and you don't expect to live more than 6 months).

Daily living and mobility are each made up of two components: standard and enhanced. It depends on how your condition affects you as to whether you get one or both of these components.

Claims can be made by telephoning 0800 917 2222 (Textphone: 0800 917 7777).

There are special rules which apply if you were born after 8 April 1948, are aged over 65 and were previously receiving Disability Living Allowance; you will be invited to apply for Personal Independence Payment. You do not need to do anything until you are contacted by the Department of Work and Pensions.



Benefits Payable on Loss of Employment

Jobseeker's Allowance

This benefit is payable to people who are unemployed (or who work for less than 16 hours per week) and are looking for full time work.

There are two types:

1. Contribution-based Jobseeker's Allowance, which is subject to National Insurance contributions and is payable for a maximum six month period.
2. Income based Jobseeker's Allowance, which is payable subject to means. Special eligibility rules apply to those working short time, 16-17 year olds and people involved in trade disputes. To be eligible you must be available for work, actively seeking work and willing to sign a jobseeker's agreement.

Income Support

This benefit is means tested, but is not subject to National Insurance contributions. It is payable if all of the following conditions are met:

1. You are aged between 16 and Pension Credit qualifying age
2. You are a carer; a lone parent with a child under five, are pregnant, or (in some cases) are unable to work because of sickness or disability
3. You (and your partner) have no income, and less than £16,000 in savings
4. You work less than 16 hours per week and your partner works less than 24 hours per week.

You may also qualify if you are aged 16-21 and meet other criteria and are enrolled in education.

Benefits on Death of Spouse

There are three main benefits payable on the death of a husband, wife, or civil partner:

1. A bereavement payment – a one off lump sum payment payable upon the death of your husband, wife, or civil partner; which is not means-tested. You must apply for the payment within 12 months of the death.
2. Widowed Parent's Allowance – a weekly benefit paid to widows and widowers who are parents of a child or children living with them. You must be under State Pension age and be entitled to Child Benefit or at least one child. This is not means tested and if your spouse died as a result of industrial injury or disease it is not subject to their National Insurance Contributions. You may also be able to claim if you are pregnant and your husband dies, or you are pregnant after fertility treatment and your civil partner has died.
3. Bereavement Allowance – this is a weekly benefit paid for up to 52 weeks to widows or widowers who were 45 or over when their husband, wife, or civil partner died but under State Pension age. You cannot receive both Widowed Parent's Allowance and Bereavement Allowance. This benefit is not means tested nor is it subject to National Insurance contributions if your spouse died as a result of an industrial injury or disease.

Applications must be made within 52 weeks of your spouse's death.

You can contact the bereavement service helpline on 0345 606 0265 (Textphone: 0345 606 028).



Other Benefit Payments

Working Tax Credit

This is paid to low paid workers, with or without children, who are in full time paid work. Full time paid work is:

1. At least 16 hours per week if you or your partner are responsible for a child or qualifying young person (or 24 hours between a couple with one of you working at least 16 hours)
2. At least 16 hours per week if you have a physical or mental disability which puts you at a disadvantage in getting a job and you qualify for a disability element
3. At least 16 hours per week if you or your partner are at least 50 and qualify for a 50+ element
4. At least 30 hours per week if you are aged 25 to 59.

Child Tax Credit

This benefit is paid to families with children, whether they are in paid work or not. You do not have to have paid National Insurance contributions to qualify. This is a means-tested benefit.

You cannot claim tax credits and Universal Credit at the same time.

Universal Credit

This benefit is being introduced in stages across the country. Universal Credit will replace Jobseeker's Allowance, Housing Benefit, Working Tax Credit, Child Tax Credit, Employment Support Allowance and Income Support.

Applicants have to accept a "Claimant Commitment" if they wish to get Universal Credit, and this is an agreement that the applicant will complete certain tasks.

Further information can be obtained from the Universal Credit Helpline: 0345 600 0723 (Textphone: 0345 600 0743).

Dust-related Diseases

In certain cases where a disease is caused by dust, such as asbestos dust, a victim or dependant may be able to claim compensation from the government under the Pneumoconiosis etc. (Workers Compensation) Act 1979.

Victims (or dependants) of Diffuse Mesothelioma who are unable to make a claim under the 1979 Act and have not received payment in respect of the disease from an employer may be eligible for a lump sum payment under the Diffuse Mesothelioma Scheme.

For further information or to request a claim form, telephone: 0345 603 1358 (Textphone: 0345 608 8551).

Effect of State Benefits on Compensation Payments

If you receive a compensation payment, subject to the amount received, your entitlement to continue to receive state benefits will depend on whether or not a particular benefit is means tested.

Non-means Tested Benefits

The following benefits are payable whatever levels of income or capital you have and any compensation payment will not affect your entitlement to continue to receive the benefit:

1. Incapacity Benefit
2. Industrial Injuries Benefits
3. Personal Independence Payment

Means-tested Benefits

Subject to the amount of the award, your compensation payment may make you ineligible to receive benefits.

The following benefits are means tested:

1. Income Support
2. Income Based Jobseeker's Allowance
3. Income Based Employment and Support Allowance
4. Housing Benefit
5. Council Tax Benefit
6. Health Benefits

However; the compensation payment will not be taken into account if you put it into a Special Needs Trust which can be set up by your solicitor.

Money held in this way is invested but payments can be met from the Trust to cover specific expenses such as holidays or buying a car. The Trust can be ended at any time and the compensation money returned to your control.

You should also consider whether any compensation is placed in a Personal Injury Trust.



The Compensation Recovery Unit

The Compensation Recovery Unit (CRU) is part of the Department for Work and Pensions. It is responsible for recovering state benefits which have been paid as a result of an accident or industrial injury from compensation money.

Benefits will only be recovered, however, in the event that a compensation payment is made. The repayment will be deducted from your compensation payment, before it is sent to you. Not all of your compensation payment can be reduced and certain benefits may only be deducted from specific elements of your award. There will be no deduction at all from the injuries, pain and suffering element of your compensation payment.

You will receive a Certificate of Recoverable Benefits which sets out the amount the CRU say should be repaid in the event of a successful claim. It details the total of each relevant benefit which they say should be taken into account.

You can ask the CRU to review the Certificate at any time if you feel there is an error and it can issue a new one.

You can appeal against the Certificate but only after final settlement. A typical appeal would be on the basis that the CRU has taken into account benefit that was not related to the injury or disease for which compensation has been paid.

The appeal is heard by an appeal tribunal consisting of a legally qualified chair and one or two medical members.

If the amount of recoverable benefit is reduced, whether or not you receive a refund depends on the terms of settlement of your compensation claim.

If you accept a total sum, less recoverable benefits, then you should be entitled to a refund. If you accept a specific sum with recoverable benefits payable in addition, then you will not be entitled to a refund.

0800 0 224 224

For more information visit:

www.thompsonstradeunion.law



@thompsonslaw

The information contained in this booklet is not a substitute for legal advice. You should talk to a lawyer or adviser before making a decision about what to do. Thompsons Solicitors is a trading name of Thompsons Solicitors LLP and is regulated by the Solicitors Regulation Authority.

Published August 2017

CMP17-245

Standing up for you