



# Irish Nurses and Midwives Organisation

## Working Together

### **INJURY AT WORK**

This booklet provides information on the entitlements of nurses and midwives where they sustain an injury at work or where they contract a disease because of the work they do. The entitlements arise from three different sources, namely:

- i. Occupational Injuries Scheme operated by the Department of Social Protection;
- ii. Injury Allowance as provided for under various Health Service Superannuation Schemes;
- iii. Personal injury compensation as provided by the Injuries Resolution Board under the *Personal Injuries Assessment Board Act 2003*.

#### **(i) THE OCCUPATIONAL INJURIES SCHEME (Department of Social Protection)**

The Occupational Injuries Scheme consists of a range of benefits, i.e. Injury Benefit, Disablement Benefit, Incapacity Supplement, Constant Attendance Allowance, Medical Care Scheme and Death Benefit. An employee may be entitled to one or more of these benefits where she/he suffers an injury at work or where she/he contracts a prescribed occupational disease. There are different conditions attached to each benefit.

#### **Injury Benefit**

Injury Benefit is payable to an employee who is unable to work because of an accident at work or because she/he has contracted an occupational disease. The Department of Social Protection regards an accident "while on an unbroken journey to or from work" as an accident at work. Social Welfare Leaflet No.33 contains a list of the prescribed occupational diseases and may be downloaded from the Department's website, [www.welfare.ie](http://www.welfare.ie)

**Eligibility** - In general, an employee will be eligible for injury benefit if she/he pays PRSI (pay-related social insurance) at Class A, D, J or M. Most nurses/midwives pay PRSI at Class A or D. You do not have to be insured for a particular length of time to qualify.

**Duration** - Injury Benefit is a weekly payment and is payable from the 4th day of injury or commencement of the disease and for up to 26 weeks. You cannot receive Injury Benefit if you are also in receipt of Statutory Sick Pay. In the event that you are still unable to work after 26 weeks you may be entitled to Illness Benefit, Disability Allowance or Supplementary Allowance. You may also be entitled to Disablement Benefit if you suffer a loss of physical or mental faculty as a result of the accident or disease.

**Rate of Injury Benefit** – The current rate of injury benefit is as follows:

	<b>Weekly rate</b>	
<b>Personal rate</b>	€254.00	
<b>Increase for a qualified adult</b>	€168.80	
<b>Increase for a qualified child</b>	Under 12	Over 12
Full-rate	€58.00	€78.00
Half-rate	€29.00	€39.00

**How to apply** - In order to initiate a claim for injury benefit you must first go to your GP who will give you a First Social Welfare Medical Certificate (includes a claim form) which you should complete and either hand in to your local Social Welfare Office or post to the Injury Benefit Section of the Department of Social Protection. Weekly intermediate medical certificates must be obtained and forwarded to the Department for the duration of your injury/incapacity. **Application for Injury Benefit should be made within 21 days of your injury/incapacity. This is important because if you do not claim in time you may lose benefit.**

### **Disablement Benefit**

Disablement Benefit is payable by the Department of Social Protection to an employee who suffers a loss of physical or mental faculty because of an accident at work or because she/he has contracted an occupational disease. According to the Department, “loss of faculty” means your inability to enjoy a normal lifestyle because of the loss or partial loss of your ordinary physical or mental abilities as a result of your occupational

injury or disease. Payments are made on the basis of incapacity and will be paid whether or not an employee is able to work.

**Eligibility** - To qualify for Disablement Benefit you must be in insurable employment at PRSI Class A, B, D, J, or M.

**Rate of Disablement Benefit** – The Department's Medical Assessor will examine you to assess the extent of your 'loss of faculty' following your occupational accident/disease. Payment depends on the extent of your disablement. Where disablement is assessed at 20% or more, the Benefit is paid by weekly or monthly pension. Where it is assessed at less than 20%, a lump sum will normally be payable. The current rates of Disablement Benefit are as follows:

Level of disablement	Weekly payment
100%	€285.00
90%	€256.50
80%	€228.00
70%	€199.50
60%	€171.00
50%	€142.50
40%	€114.00
30%	€85.50
20%	€57.00

If you have up to 19% disablement, a lump sum (gratuity) may be payable. The amount of lump sum will vary depending on the extent of your disablement and length of time you are reasonably expected to be disabled.

**How to Apply** - If you are not able to work after the accident/disease you should first claim Injury Benefit described above. Before your Injury Benefit ceases, you should claim Disablement Benefit.

If you are able to work after the accident/disease, you do not need to claim Injury Benefit. You should claim Disablement Benefit as soon as possible and within three months of the date of the accident or onset of the disease. Complete the claim form and send it to the Disablement Benefit Section of the Department of Social Protection. **Again, it is very important that you claim Disablement Benefit in time otherwise you may lose some benefit.**

### **Incapacity Supplement**

If you are in receipt of Disablement Benefit and you are unfit for work, you may also qualify for Illness Benefit. However, if you are not entitled to Illness Benefit or another social welfare benefit, you may get Incapacity Supplement which is an extra supplement in addition to Disablement Benefit in the event that you are permanently incapable of work as a result of your occupational accident or disease.

**Rate of Incapacity Supplement** – The current rate of Incapacity Supplement is as follows:

<b>Incapacity Supplement by categories</b>	<b>Weekly rates</b>	
Under 66	€254.00	
66 and over	€273.30	
Increase for a qualified adult under 66	€168.60	
Increase for a qualified adult 66 and over	€181.40	
Increase for a qualified child	<b>Under 12</b>	<b>Over 12</b>
Full rate	€58.00	€76.00
Half rate	€29.00	€39.00

### **Constant Attendance Allowance**

This is an allowance which is paid weekly as an increase to Disablement Benefit in the event that you are so seriously disabled as to need someone to help you at home on a daily basis to attend to your personal needs for a period of at least 6 months. In order to qualify, you must be in receipt of Disablement Benefit of at least 50%. The Department's medical advisor will assess your entitlement to Constant Attendance Allowance.

**Rate of Constant Attendance Allowance** - €271.00 per week.

### **Medical Care Scheme**

You are entitled to benefit under the Medical Care Scheme if you are injured at work or you contract a prescribed occupational disease and you are in insurable employment at PRSI Class A, B, D, J or M. The scheme provides for a refund of the costs of medical care and attention that are not fully paid for by the Health Service Executive or covered by the Department's Treatment Benefit Scheme. Such refunds may include doctors' visits, doctors' prescriptions, certain dental and optical treatment, etc. Social Welfare Booklet No. 34 contains the full range of expenses which may be refunded in addition to the application form. You must notify the Department of Social Protection of your intention to claim medical care within 6 weeks of the start of medical treatment.

### **Death Benefit**

Death Benefit is payable by the Department of Social Protection to the dependants of a person who dies as a result of an accident at work or occupational disease, or who was in receipt of a Disablement Pension assessed at 50% or more at the time of his/her death.

### **Preserving your rights to future benefits**

Where you suffer an occupational injury/disease and you are not immediately incapacitated you should, however, preserve your future entitlement to Injury Benefit and/or Disablement Benefit in the event that you are incapacitated at some future date. To do this you should immediately following the accident or the onset of the disease, notify your employer of the accident/disease, apply to the Department of Social Protection for a declaration that your accident/disease occurred at work. In the event that your disablement occurs at a later stage, you should claim within three months of becoming aware of it. Declaration forms are available from Injury Benefit Section, Department of Social Protection, Aras Mhic Dhiarmada, Store Street, Dublin 1.

### **(ii) INJURY ALLOWANCE (Health Service Superannuation Schemes)**

Generally, an injury allowance may be granted where a nurse/midwife employed in the public health service is injured:

- (a) in the actual discharge of his or her duty, and
- (b) without his or her own default, and
- (c) by some injury attributable solely to the nature of his or her duty.

Entitlement to the allowance arises only where all of the three conditions are met. The amount of the allowance is determined by reference to five-sixths of remuneration, including emoluments, of the position in which the person received the injury and is

effective from the date of injury. The period of time during which a person receives the allowance is not recognised for pension purposes.

The allowance is payable in addition to the benefits payable under the Occupational Injuries Scheme operated by the Department of Social Protection described above, however, such benefits or any other allowance, e.g. pension payable to or in respect of the person will be deducted from the gross amount of the allowance.

A nurse/midwife who suffers an injury at work or who contracts an occupational disease in circumstances described above should contact the INMO Information Officer or their Industrial Relations Officer for further information.

### **(iii) PERSONAL INJURY COMPENSATION** (Injuries Resolution Board)

The Injuries Resolution Board, is an independent statutory body, established under the *Personal Injuries Assessment Board Act, 2003*, to assess the amount of compensation due to an injured person where those injuries arise from workplace accidents, road traffic and public liability claims. All personal injury claims (except for cases involving medical negligence) must be submitted to the Injuries Resolution Board.

Not all workplace accidents can give rise to a possible compensation claim however, if you have an accident at work because of your employer's breach of their duty of care to you as an employee, you are entitled to be compensated for any personal injury you may have sustained. In such a circumstance, and provided your employer agrees to the Injuries Resolution Board assessing your claim and does not raise legal issues, such as claiming that they were not responsible or that there was contributory negligence, the Injuries Resolution Board will assess the amount of compensation due to you. If your employer does not consent to the assessment of your claim, the Injuries Resolution Board will issue an Authorisation permitting you to pursue the matter through the Court system.

Compensation comprises General Damages, i.e. for pain and suffering resulting from the injuries you sustained as a result of your accident, and Special Damages, i.e. any expenses that you incurred as a result of your accident such as loss of earnings, medical expenses, out of pocket expenses, and, where applicable, future loss of earnings and future expenses.

If you wish to seek compensation for a personal injury arising from a workplace accident where you believe your employer breached their duty of care to you, you should notify your employer, in writing, within one month of the accident (advisable) of your intention to make a personal injuries claim to the Injuries Resolution Board. You should then submit your application to the Injuries Resolution Board. You can do this online at [www.injuries.ie](http://www.injuries.ie) or by availing of the INMO Occupational or Bodily Injury **Free Legal advice Service 0818670707 or (01) 6707472**.

## WHAT TO DO FOLLOWING AN ACCIDENT

### A Step-by-Step Guide

**Step 1 – Notify your Employer** - As soon as possible following an occupational accident or onset of an occupational disease you should contact your employer and notify them of the accident or onset of the disease. Even if you are not immediately incapacitated following the accident, you should still notify your employer, as you are preserving your future entitlement to the benefits described above in the event that you are incapacitated at some future date.

**Step 2 – Apply for Benefits under Occupational Injuries Scheme** - If you are not able to work after the accident/disease you should first claim Injury Benefit, described above. If you are still unfit for work after 26 weeks you should claim Disablement Benefit before your Injury Benefit ceases.

If you are able to work after the accident/disease, you do not need to claim Injury Benefit. You should claim Disablement Benefit, described above.

**Step 3 – Apply for Injury Allowance – if applicable** - If your workplace injury/occupational disease occurs in circumstances which satisfy the conditions governing the award of an Injury Allowance as provided for under various Health Service Superannuation Schemes, you are entitled to make application to your employer for payment of the allowance. Your application to your employer for Injury Allowance should be made in addition to your application to the Department of Social Protection for payment of Injury Benefit / Disablement Benefit.

**Step 4 – Apply for Personal Injury Compensation – if applicable** - If you sustain a workplace injury because your employer failed in their duty of care to you as an employee, you are entitled to seek personal injury compensation from the Injuries Resolution Board, as provided for under the *Personal Injuries Assessment Board Act, 2003*. Your application to the Injuries Resolution Board for personal injury compensation should be made in addition to your application to the Department of Social Protection for payment of Injury Benefit / Disablement Benefit and your application to your employer for payment of an Injury Allowance, if applicable.

### FURTHER INFORMATION

This article is intended as a guide only and does not purport to be a legal interpretation of the entitlements described above. Further information is available from the INMO Information Office: contact Catherine Hopkins at Telephone: 01-6640610, Email: [catherine.hopkins@inmo.ie](mailto:catherine.hopkins@inmo.ie) or Catherine O'Connor at Telephone: 01-6640619, Email: [catherine.oconnor@inmo.ie](mailto:catherine.oconnor@inmo.ie)

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