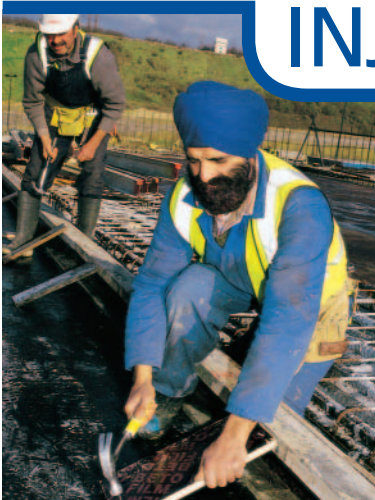




REVISED JANUARY 2006

Industrial INJURIES



**Are you
entitled
to state
benefits?**

*T&G – the **fighting
back** union*

www.tgwu.org.uk

Personal injuries

THE T&G CAN HELP



Each year, thousands of workers suffer accidents while they are at work.

This leaflet will help you find out if, as a result of an

injury you have sustained at work, you are entitled to benefits.

It has been updated to cover the government's current rules, including those introduced by the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 2002.

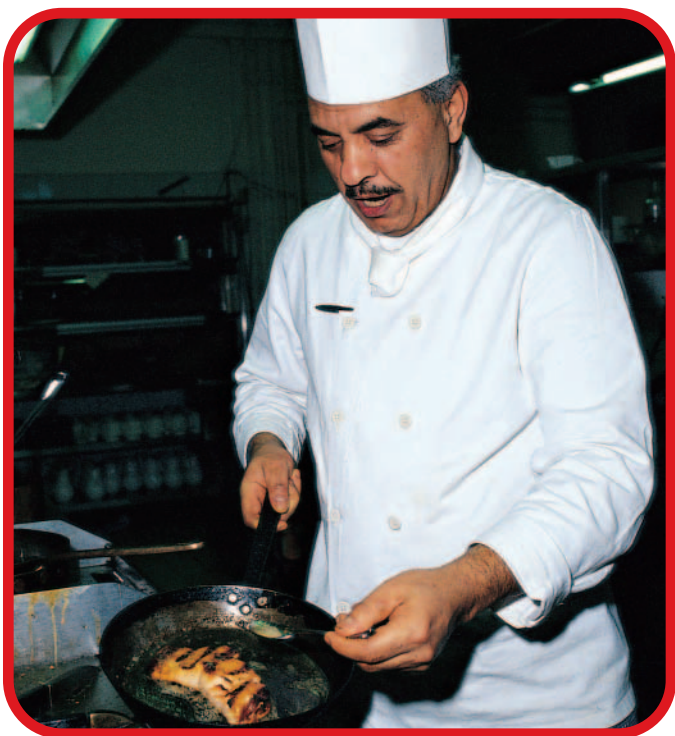
The T&G is also maintaining its campaign to restore rights to compensation which have been lost in recent years, as well as improve upon those rights which now exist.

A handwritten signature in black ink, appearing to read 'Tony Woodley'. The signature is written in a cursive style with a long horizontal line above it.

Tony Woodley
General Secretary

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Industrial injuries

SSP AND INCAPACITY BENEFIT



ALWAYS REPORT YOUR ACCIDENT

If you meet with an accident at work or contract an industrial disease report it immediately to your employer.

It is important to make sure that accurate details are recorded in the accident book because your employer will later have to confirm the circumstances of your accident to the Benefits Agency.

ACCIDENT DECLARATION FOR A LATE CLAIM

Even if you have never registered your industrial injury with the Benefits Agency – and months, even years later you continue to suffer because of it – you can always register a late claim through an accident declaration. There is no time limit for the application of an accident declaration.

If you experience difficulty with your claim, or if you have suffered an injury at work and not received these benefits, then consult your regional industrial organiser. Your branch secretary can supply the officer's name and contact details.

STATUTORY SICK PAY–SSP

If you are absent from work after an industrial accident you may be entitled to sick pay under your contract of employment. If not, you should claim SSP from your employers. This can be claimed for 28 weeks.

If you are absent from work after this time, you should then claim Incapacity Benefit from the Benefits Agency.

INCAPACITY BENEFIT

You are eligible for Incapacity Benefit if you are unable to work because of illness or disability, and if your National Insurance contributions are sufficient.

The tests* to be satisfied in order to secure Incapacity Benefit are:

- the own occupation test (i.e. a person is unable to work in their own occupation for the first 28 weeks), and
- the personal capability assessment (i.e. a person is unable to do any work from 29 weeks and beyond)

*The own occupation test is based on medical certificates provided by your doctor. The personal capability assessment consists of completing a questionnaire, providing a statement from your doctor and a medical examination by the Benefits Agency.

- there are a number of exemptions which are too extensive to list here but can be found in leaflet IB201 from your local Benefits Agency office.



Industrial

INJURIES – DISABLEMENT BENEFIT

HIGHLIGHT

If you have suffered a disability as a result of an accident at work or have contracted an industrial disease you may claim Disablement Benefit after 90 days.

WHAT IS “DISABLEMENT”?

The official term for “disablement” is “the overall effect” of the loss of physical and mental faculty. This means something that prevents you from enjoying a normal life, even if there is no bodily handicap and could include, for instance, a scar.

THE DISABLEMENT ASSESSMENT

The decision-maker will first decide whether your accident is an industrial accident and, if so, will issue a declaration to this effect. The next step will be to decide whether you have suffered a loss of faculty.

This is assessed by comparing your condition as a result of the accident with the condition of a normal healthy person of the same age and sex. A medical services doctor will examine you and a report is provided to the decision-maker, who will then go on to assess the amount of your disablement and how long it will last.

PRESCRIBED INDUSTRIAL DISEASES

You may also qualify for Disablement Benefit if you suffer from an industrial disease, e.g. dermatitis, asbestosis, tenosynovitis.

The decision-maker will then assess whether you have worked in one of the prescribed occupations. If so, a medical report is obtained to establish whether you can be diagnosed as suffering from one of the prescribed diseases. On the basis of this evidence, the decision-maker decides whether you are entitled to a payment of benefit.

PAYMENT OF DISABLEMENT BENEFIT

All disablement benefit assessments are expressed as a percentage subject to a maximum of 100%. If your disablement is assessed at 14% or more it will be paid as a weekly pension. If the disablement has been assessed at less than 14%, no benefit will be paid, except for certain lung and chest diseases where benefit below 14% will continue to be paid.

However, separate injuries may be added together and benefit paid if the total disablement is 14% or more.

Note: Disablement Benefit will continue to be paid if you:

- are receiving Incapacity Benefit, or
- have returned to work and continue to be paid full wages

Examples of payment: 40% is £49.52 per week and 100% is £123.80 per week (2005).



Industrial

INJURIES – ADDITIONAL SUPPORT

MESOTHELIOMA – NEW RULES

New rules have been introduced concerning the payment of disablement benefit in cases of mesothelioma, caused by exposure to asbestos dust.

From 29th July 2002 where an application is received by the Benefits Agency, once the condition is accepted, an automatic award of 100% disablement benefit (£123.00 per week 2005) will be made to the claimant.



REDUCED EARNINGS ALLOWANCE

If you sustained an injury at work or contracted an industrial disease before 1st October 1990 you may be entitled to Reduced Earnings Allowance if:

- you have received an award of disablement benefit and
- are suffering a loss of earnings as a result.

Note: Reduced Earnings Allowance payments can be combined with disablement benefit payments if appropriate.

UNFORESEEN AGGRAVATION

If you find that you still suffer from the disablement once the period has come to an end you should apply to the Benefits Agency to seek a review on the grounds of unforeseen aggravation. Following this, a medical services doctor will examine you so that your assessment can go forward for review.



DISABILITY LIVING ALLOWANCE (DLA)

If you are receiving Incapacity Benefit, Income Support, income-based JSA, Severe Disablement Allowance or a retirement pension, the DLA payment can be combined with that payment. DLA is payable if you are:

- under 65 years of age
- have developed an illness or disability, and/or
- require additional care or have mobility needs

There are two elements to a DLA award:

1. **Care component:** to help with extra costs arising as a result of the disability or illness
2. **Mobility component:** assessed by the difficulty experienced in getting around

There are three rates at which DLA is payable:

1. **Highest rate:** if help is needed day and night
2. **Middle rate:** if help is needed during the day or night
3. **Lowest rate:** some help is required during the day but less than the middle rate

DISABLED PERSONS TAX CREDIT

Disabled Person's Tax Credit is an income-based, non-taxable benefit to which you may be entitled if you:

- are aged 16 or over
- have an illness or disability which disadvantages your chances of getting a job, and
- are working at least 16 hours per week

Industrial injuries

REVISIONS, SUPERSESSIONS AND

INCOME SUPPORT

Income Support (IS) is payable if you are incapable of work because of sickness, provided

- you meet the “personal capability” and “own occupation” tests
- you are not seeking employment, and
- your income does not disqualify you

JOB SEEKER'S ALLOWANCE

Job Seeker's Allowance (JSA) was introduced in October 1996. If you are suffering from a disability, you may be entitled to a JSA payment.

The main conditions to be satisfied for eligibility are that you:

- have entered a Job Seeker's agreement
- are actively seeking work
- satisfy the contribution based or the income-based conditions
- are capable of work
- are unemployed or working an average of less than 16 hours per week.

If you experience difficulty in obtaining either IS or JSA, ask your full time regional industrial organiser for assistance.



HOW TO CLAIM BENEFIT

Benefits	How To Claim *
Incapacity Benefit after receiving Statutory Sick Pay for 28 weeks	Form SSP 1
Incapacity Benefit in all other circumstances	Form SC1
Disablement benefit for an industrial accident	Form BI 100 A
Disablement benefit for chronic bronchitis	Form BI 100 C
Disablement benefit for allergic rhinitis	Form BI 100 E
Disablement benefit for occupational asthma	Form BI 100 O A
Disablement benefit for occupational deafness	Form BI 100 O D
Disablement benefit for pneumoconiosis, byssinosis, diffuse mesothelioma, pleural thickening and lung cancer (accompanied by asbestosis or diffuse pleural thickening)	Form BI 100 P N
Disablement benefit for any other industrial disease	Form BI 100
Reduced Earnings Allowance	Form BI 103
Disability Living Allowance	Form DLA 1
Income Support	Form A1
Jobseekers Allowance	Contact your local Jobcentre
Disabled Persons Tax Credit	Contact the Benefits Agency, Inland Revenue or Jobcentre for an information pack

* All of the above leaflets are available from your local Benefits Agency office. If you are unable to attend your local office the forms can be downloaded from <http://www.dwp.gov.uk>

Industrial injuries

REVISIONS, SUPERSESSIONS AND APPEALS

The Social Security Act 1998 introduced a new three-route system for challenging disputed benefit awards.

It is important to note that there are now **new time limits** within which you can apply for a revision or an appeal.

These are:

- **within one month of the date upon which you were notified of the decision of your benefit claim, or**
- **when a statement of reasons of the decision is requested, the time limit is extended by 14 days.**

If you want to apply but are out of time, contact your local regional industrial organiser for advice and assistance.



REVISIONS

A benefit or supersession decision by the decision-maker can be revised for any reason, except for a change of circumstances, when the decision will be superseded.

If the Benefits Agency agrees the decision should be revised, the revised decision will take effect on the same day as the original decision.

If you do not agree with the revised decision, you have a right of appeal to the Appeal Tribunal, within the time limits specified earlier.

SUPERSESSIONS

If, since the initial benefit claim decision, there has been a change to your circumstances that could affect your benefit entitlement, you should make a request for a supersession. The Benefits Agency can also request a supersession. If as a result of this process your benefit award is changed, the change will take effect from the date the decision is made. Payment awards will not be backdated.

Before applying for a supersession, check with your regional industrial organiser to find out whether you have grounds for either a revision, a late revision or an appeal. This is because if your request for supersession is refused, there is no right of appeal.

APPEALS

The Appeal Tribunals hears all appeals against benefit decisions, revisions or supersessions.

If your benefit decision has not been revised, ask the Benefits Agency to revise the decision. If they agree and revise the decision, and if you are happy to accept their decision, the process is considerably quicker than waiting for the Appeal Tribunal to decide.

Before appealing, seek advice from your regional industrial organiser as you will have to provide the grounds upon which you are appealing.

Late revisions

Grounds also exist for late revisions and late appeals, up to 13 months after the date you were notified of the decision against which you wish to appeal. Contact your full-time regional industrial organiser for assistance.

The Social Security Commissioner.

If your appeal is unsuccessful, there may be grounds for an appeal to the Social Security Commissioner. Your regional industrial organiser will refer such appeals to the Central Office Legal Department.

Industrial injuries

AT YOUR SERVICE

T&G MEMBERS – YOUR EXTRA SERVICE



Even though Civil Legal Aid is no longer available for industrial injuries, the T&G – through its free Legal Aid scheme – can help you claim compensation for industrial injuries. As long as you are a member, you may receive union legal assistance and advice whenever you need it.

T&G LEGAL SERVICES

Your children, your parents, in fact all non-working members of your family are now covered by T&G legal services.

The T&G has recovered more than £74 million for members injured in the past year.

What's more any personal injury claim suffered by a non-working dependent family member will also receive union support. **That means your kids, parents, in fact all your non-working family members are covered.**

Cover extends to members injured at work or in **any personal injury claim outside work**, no matter where this occurs.

The union's new and improved legal services gives greater protection than "No win No fee" arrangements.

There's no deduction from compensation as the union deals with all legal expenses on your behalf. That means you get to keep all the compensation.

CRIMINAL INJURIES COMPENSATION AGENCY

If you are injured in a **crime of violence** you can claim compensation from the Criminal Injuries Compensation Agency.

If the injury occurs while you are at work, the T&G can help you make a claim.

AND REMEMBER...

- always report accidents no matter how trivial they may first appear
- always be sure to get prompt first aid or medical attention, and
- always maintain a fully paid up trade union card.

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With over 800,000 members, working in every type of workplace throughout the UK, the T&G is an expert in the world of work.

The T&G also provides a comprehensive legal service to its members. Read this leaflet or check with your local T&G representative to find out more about:

- Accidents at Work
- Industrial Diseases in the Workplace
- Employment Rights at Work
- Occupational Pensions
- State Benefits
- Compensation for Criminal Injuries at Work
- Your Free Legal Advice

For more information about the T&G fill in the form overleaf or contact your local T&G representative:

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INFO

I have heard about the excellent benefits of joining the

T&G and I would like to know more about joining the T&G.

Name

Workplace

Address

Postcode

Please send me an application form

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don't need
to use a stamp,
but adding
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money for
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