

## Questions and answers about EU Member State work injury insurance

Q1 The scope of EU and its main member states' Legislations on work injury, i.e. the definition of work injury, how to deal with the traffic accidents in the way to/from work. Would it be possible for self-employed, house wife and students to receive work injury insurance?

A 1A. The definition of a work injury in each Member State is as follows:

Member State	Definition
Belgium	Accident injury that occurred during and as a result of the execution of the work contract – work injury scheme provided by private insurance, not state social insurance
Bulgaria	Sudden injury occurring and in connection with work performed in the interest of the enterprise if it has caused incapacity for work or death
Czech Republic	Injury, illness or death resulting from the performance of working tasks or in direct connection with such activities
Denmark	Personal injury caused by an incident or exposure during work that occurs suddenly or within 5 days
Germany	Accident injury that occurred in the enterprise and/or in connection with an occupation depending on the enterprise on the basis of a contract of employment or any other insured activity
Estonia	No specific work injury insurance, but covered by other schemes. Injury or health damage sustained as a result of an accident occurring in the course of fulfilling work duties
Greece	No specific work injury insurance, but covered by sickness, invalidity and survivors' schemes. Accident injury that occurred because of and during employment
Spain	Any physical injury the employee suffers in the course of or as a consequence of his/her employment and any disease not considered as an occupational disease that the employee contracts during the execution of his/her professional activity
France	Any injury that occurred as a result of or in connection with work, regardless of its cause
Ireland	Personal injury incurred as a result of an accident at work, including diseases caused by such accidents or a prescribed occupational disease contracted in the course of insurable employment
Italy	Injury produced by a violent cause at work
Cyprus	Temporary incapacity for work, permanent loss of physical/mental faculties or death as a result of an accident arising out of and in the course of employment of an employee
Latvia	Accident or injury occurring during and/or as a result of work duties
Lithuania	Accident in the working environment which causes an employee partial or total loss of functional capacity or death
Luxembourg	Injury occurring as a result or at times of work
Hungary	No specific work injury scheme. Persons covered by sickness, invalidity and survivors; schemes
Malta	Personal injury or disease caused by an accident during and as a result of employment or self-occupation
Netherlands	No special work injury provision – covered by sickness and invalidity benefit and survivors' schemes
Austria	Accidents that occurred at work, during working time or as a result of the activity performed. Certain accidents are assimilated if they occur in particular during rescue operations
Poland	Accidents occurring in the course of work or connected with usual work

Portugal	Accident occurring at the place of work and during the employment or provoked by the work, giving rise directly or indirectly to a physical injury, functional disorder or disease leading to death or a partial or total loss of working or earning capacity
Romania	Violent body impairment as well as acute intoxication during working process or whilst carrying out duties or in the course of vocational training of unemployed, apprentices, pupils and students leading to at least 3 calendar days of temporary working incapacity, invalidity or death
Slovenia	Employment injuries arising out of and in the course of employment
Slovakia	Injury or death sustained in connection with the performance of working tasks, except those caused by the employee or caused due to intoxication of the employee
Finland	An injury that occurred at work or in circumstances deriving from an employment
Sweden	Every accident or illness related to the working situation. The injury is accepted as a work injury if it is clear that the person suffered an accident or some other harmful influence at work. The injury must be presumed to be as a result of the harmful influence if there are stronger grounds for such a presumption than for the contrary
United Kingdom	Personal injury caused during and as a result of employment

A 1B. The application in each Member State to accidents to and from work is as follows:

Member State	Whether accidents to or from work covered
Belgium	Covered
Bulgaria	Covered
Czech Republic	Not covered
Denmark	Covered under certain conditions
Germany	Covered
Estonia	Not covered
Greece	Covered by sickness, invalidity and survivors' schemes
Spain	Covered
France	Covered
Ireland	Covered
Italy	Covered
Cyprus	Covered
Latvia	Not covered, unless using employer's own means of transport
Lithuania	Covered
Luxembourg	Covered
Hungary	No work injury scheme, but covered by sickness or invalidity scheme
Malta	Covered only while travelling to or from place of work in a vehicle (including ship or aircraft) provided or paid for directly by the employer
Netherlands	No work injury scheme
Austria	Covered
Poland	Not covered
Portugal	Covered
Romania	Covered
Slovenia	Covered
Slovakia	Not covered
Finland	Covered
Sweden	Covered
United Kingdom	Generally not covered (Covered if travelling for work purposes to a place other than, and further than, the normal place of work)

A 1C. The application in each Member State to self-employed is as follows:

Member State	Whether self-employed are covered
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Belgium	Not covered
Bulgaria	Not covered
Czech Republic	Not covered
Denmark	Optionally covered
Germany	Self-employed farmers are covered, but most self-employed are not covered
Estonia	Not covered
Greece	Self-employed farmers are covered, but other self-employed depend on sickness insurance
Spain	Compulsory coverage for self-employed farmers; optional coverage for other self-employed
France	Self-employed farmers are covered, but other self-employed depend on sickness insurance
Ireland	Not covered
Italy	Covered
Cyprus	Not covered
Latvia	Not covered
Lithuania	Not covered, but may optionally participate in private insurance
Luxembourg	Covered, but less favourably than employed persons
Hungary	No work injury scheme, but covered by sickness or invalidity scheme
Malta	Covered
Netherlands	No work injury scheme
Austria	Covered
Poland	Covered
Portugal	Covered
Romania	Covered, but less favourably than employed persons
Slovenia	Covered
Slovakia	Not covered
Finland	Optionally covered
Sweden	Covered
United Kingdom	Not covered

A 1D. The application in each Member State to housewives and students is as follows:

Member State	Whether covered
Belgium	Apprentices covered for work injury and occupational disease; students are covered for occupational disease
Bulgaria	Not covered
Czech Republic	Not covered
Denmark	Trainees at a training centre or workshop or office because of their study or vocational training
Germany	Students are covered; certain spouses are voluntarily covered
Estonia	Not covered
Greece	Not covered
Spain	Not covered
France	Not covered
Ireland	Some trainees are covered
Italy	Unpaid persons working in the household are covered
Cyprus	Not covered
Latvia	Not covered
Lithuania	Students covered
Luxembourg	Students and persons attending vocational training are covered
Hungary	No work injury scheme
Malta	Not covered
Netherlands	No work injury scheme
Austria	Certain housewives covered
Poland	Not covered
Portugal	Not covered

Romania	Students and apprentices under taking vocational training are covered
Slovenia	Students are covered
Slovakia	Students are covered
Finland	Some students and trainees are covered
Sweden	Not covered
United Kingdom	Not covered

Q2 Are legislations on civil servants' work injury, the same as for the enterprises' employees or is there a special scheme?

A 2. The application in each Member State to civil servants is as follows (In some cases where public servants are covered by the social insurance scheme, special arrangements apply to the armed forces and/or police):

Member State	Whether civil and public servants are covered by the work injury social insurance scheme
Belgium	Special system for public servants
Bulgaria	Covered
Czech Republic	Covered
Denmark	Covered
Germany	Special system for public servants
Estonia	No specific work injury scheme
Greece	No specific work injury scheme
Spain	Voluntary coverage for public servants
France	Special system for public servants
Ireland	Covered
Italy	Not covered
Cyprus	Covered
Latvia	Covered
Lithuania	Covered
Luxembourg	Covered
Hungary	No specific work injury scheme
Malta	Covered
Netherlands	No specific work injury scheme
Austria	Special system for public servants
Poland	Covered
Portugal	Covered
Romania	Covered
Slovenia	Covered
Slovakia	Covered
Finland	Special system for public servants
Sweden	Covered
United Kingdom	Covered

Q3. Legislations on work injury prevention. For instance, how to preserve the fund for prevention proposes and where to utilize it.

A 3. This question will be answered separately

Q4. Procedures for work injury dispute.

A 4. Each Member State has an appeals procedure. A determination may also be reviewed,

either in some cases automatically or on application by the claimant.

Member State	When determination may be reviewed
Belgium	For work injury within 3 years of final decision; for occupational disease at any time
Bulgaria	At the end of the period of each award
Czech Republic	When circumstances change
Denmark	Within 5 years of the annuity being fixed, or beyond the 5-year limit in special circumstances
Germany	At any time during 3 years after injury. Thereafter only at intervals of 1 year
Estonia	No specific work injury scheme
Greece	No specific work injury scheme
Spain	At any time up to minimum pension age
France	At any time during 2 years after fixing of degree of incapacity. Thereafter normally at intervals of 1 year
Ireland	At end of provisional assessment period or earlier if circumstances alter
Italy	During 4 years after annuity is fixed at intervals of 1 year, thereafter at intervals of at least 3 years, but no review after 10 years
Cyprus	If circumstances change at request of medical board
Latvia	At initiative of responsible social insurance institution or at beneficiary's request
Lithuania	Review possible at any time
Luxembourg	Review possible only during 3 years from fixing of the annuity, unless deterioration of more than 10%
Hungary	No specific work injury scheme
Malta	Claimant re-examined by medical panel or consultant who certifies incapacity more serious than originally anticipated
Netherlands	No specific work injury scheme
Austria	At any time during first 2 years. Thereafter at intervals of at least 1 year
Poland	Review possible if a major change in beneficiary's state of health
Portugal	At any time at initiative of responsible social insurance institution or at beneficiary's request
Romania	Subject to medical checks at 6 – 12 monthly intervals
Slovenia	Regular medical checks at 5-yearly intervals to age 45 and thereafter on request at 5-yearly intervals
Slovakia	Regular review of capacity for work on terms assigned by doctor. If temporary capacity at intervals of 4 weeks; for permanent incapacity only if change of capacity for work can be assumed
Finland	Review always possible
Sweden	Review possible at any time up to retirement age
United Kingdom	Reconsideration possible on change of circumstances

Q5. What are the provisions for WI compensation if the injury caused by the third party and the injured is classified as work injury (for example accident in the way to/from work)? Is there any practice in EU that the WI insurance agency could pay the medical care or even rescue help first and then chase the compensation from the third party?

A5. The United Kingdom passed legislation in 1997, the Social Security (Recovery of Benefits) Act 1997 to recover from insurance and other payments the amount of work injury or equivalent benefit that had been paid over a 5-year period. It provides that, if compensation is awarded or paid to an injured worker, whether by his employer or, following a car accident by a motor insurance company, the Secretary of State (ie the Government Minister responsible for social insurance) is entitled to recover any work injury benefit payable in the 5 years following the accident.

Relevant extracts from the Act are as follows:

## **1 Cases in which this Act applies**

(1) This Act applies in cases where—

(a) a person makes a payment (whether on his own behalf or not) to or in respect of any other person in consequence of any accident, injury or disease suffered by the other, and

(b) any listed benefits have been, or are likely to be, paid to or for the other during the relevant period in respect of the accident, injury or disease.

(2) The reference above to a payment in consequence of any accident, injury or disease is to a payment made—

(a) by or on behalf of a person who is, or is alleged to be, liable to any extent in respect of the accident, injury or disease, or

(b) in pursuance of a compensation scheme for motor accidents;

.....

(3) Subsection (1)(a) applies to a payment made—

(a) voluntarily, or in pursuance of a court order or an agreement, or otherwise, and

(b) in the United Kingdom or elsewhere.

(4) In a case where this Act applies—

(a) the “injured person” is the person who suffered the accident, injury or disease,

(b) the “compensation payment” is the payment within subsection (1)(a), and

(c) “recoverable benefit” is any listed benefit which has been or is likely to be paid as mentioned in subsection (1)(b).

## **2 Compensation payments to which this Act applies**

This Act applies in relation to compensation payments made on or after the day on which this section comes into force, unless they are made in pursuance of a court order or agreement made before that day.

## **3 “The relevant period”**

(1) In relation to a person (“the claimant”) who has suffered any accident, injury or disease, “the relevant period” has the meaning given by the following subsections.

(2) Subject to subsection (4), if it is a case of accident or injury, the relevant period is the period of five years immediately following the day on which the accident or injury in question occurred.

(3) Subject to subsection (4), if it is a case of disease, the relevant period is the period of five years beginning with the date on which the claimant first claims a listed benefit in consequence of the disease.

(4) If at any time before the end of the period referred to in subsection (2) or (3)—

(a) a person makes a compensation payment in final discharge of any claim made by or in respect of the claimant and arising out of the accident, injury or disease, or

(b) an agreement is made under which an earlier compensation payment is treated as having been made in final discharge of any such claim,

the relevant period ends at that time.

#### **4 Applications for certificates of recoverable benefits**

(1) Before a person ( “the compensator” ) makes a compensation payment he must apply to the Secretary of State for a certificate of recoverable benefits.

(2) Where the compensator applies for a certificate of recoverable benefits, the Secretary of State must—

(a) send to him a written acknowledgement of receipt of his application, and

(b) subject to subsection (7), issue the certificate before the end of the following period.

(3) The period is—

(a) the prescribed period, or

(b) if there is no prescribed period, the period of four weeks,

which begins with the day following the day on which the application is received.

(4) The certificate is to remain in force until the date specified in it for that purpose.

(5) The compensator may apply for fresh certificates from time to time.

(6) Where a certificate of recoverable benefits ceases to be in force, the Secretary of State may issue a fresh certificate without an application for one being made.

(7) Where the compensator applies for a fresh certificate while a certificate ( “the existing certificate” ) remains in force, the Secretary of State must issue the fresh certificate before the end of the following period.

(8) The period is—

(a) the prescribed period, or

(b) if there is no prescribed period, the period of four weeks,

which begins with the day following the day on which the existing certificate ceases to be in force.

(9) For the purposes of this Act, regulations may provide for the day on which an application for a certificate of recoverable benefits is to be treated as received.

## **5 Information contained in certificates**

(1) A certificate of recoverable benefits must specify, for each recoverable benefit—

(a) the amount which has been or is likely to have been paid on or before a specified date, and

(b) if the benefit is paid or likely to be paid after the specified date, the rate and period for which, and the intervals at which, it is or is likely to be so paid.

(2) In a case where the relevant period has ended before the day on which the Secretary of State receives the application for the certificate, the date specified in the certificate for the purposes of subsection (1) must be the day on which the relevant period ended.

(3) In any other case, the date specified for those purposes must not be earlier than the day on which the Secretary of State received the application.

(4) The Secretary of State may estimate, in such manner as he thinks fit, any of the amounts, rates or periods specified in the certificate.

(5) Where the Secretary of State issues a certificate of recoverable benefits, he must provide the information contained in the certificate to—

(a) the person who appears to him to be the injured person, or

(b) any person who he thinks will receive a compensation payment in respect of the injured person.

(6) A person to whom a certificate of recoverable benefits is issued or who is provided with information under subsection (5) is entitled to particulars of the manner in which any amount, rate or period specified in the certificate has been determined, if he applies to the Secretary of State for those particulars.

## **6 Liability to pay Secretary of State amount of benefits**

(1) A person who makes a compensation payment in any case is liable to pay to the Secretary of State an amount equal to the total amount of the recoverable benefits.

(2) The liability referred to in subsection (1) arises immediately before the compensation payment or, if there is more than one, the first of them is made.

(3) No amount becomes payable under this section before the end of the period of 14 days following the day on which the liability arises.

(4) Subject to subsection (3), an amount becomes payable under this section at the end of the period of 14 days beginning with the day on which a certificate of recoverable

benefits is first issued showing that the amount of recoverable benefit to which it relates has been or is likely to have been paid before a specified date.

## **7 Recovery of payments due under section 6**

- (1) This section applies where a person has made a compensation payment but—
- (a) has not applied for a certificate of recoverable benefits, or
  - (b) has not made a payment to the Secretary of State under section 6 before the end of the period allowed under that section.
- (2) The Secretary of State may—
- (a) issue the person who made the compensation payment with a certificate of recoverable benefits, if none has been issued, or
  - (b) issue him with a copy of the certificate of recoverable benefits or (if more than one has been issued) the most recent one,
- and (in either case) issue him with a demand that payment of any amount due under section 6 be made immediately.
- (3) The Secretary of State may, in accordance with subsections (4) and (5), recover the amount for which a demand for payment is made under subsection (2) from the person who made the compensation payment.
- (4) If the person who made the compensation payment resides or carries on business in England and Wales and a county court so orders, any amount recoverable under subsection (3) is recoverable by execution issued from the county court or otherwise as if it were payable under an order of that court.
- (5) If the person who made the payment resides or carries on business in Scotland,  
.....
- (6) A document bearing a certificate which—
- (a) is signed by a person authorised to do so by the Secretary of State, and
  - (b) states that the document, apart from the certificate, is a record of the amount recoverable under subsection (3),
- is conclusive evidence that that amount is so recoverable.
- (7) A certificate under subsection (6) purporting to be signed by a person authorised to do so by the Secretary of State is to be treated as so signed unless the contrary is proved.

**Q6. Provisions for the seconded workers. Who should pay the contribution for work injury/ insurance and how to determine the contribution rate?**

**A6. Regulation (EEC) no. 1408/71, the EU Regulation on social security for migrant workers**

makes provision as follows for workers who suffer industrial accidents or contract occupational diseases in another Member State.

1. An employed or self-employed person<sup>1</sup> who suffers an accident at work or contracts an occupational disease and whose habitual residence is in a Member State, other than the State to whose social insurance agency he has been paying contributions, is entitled to receive in the State in which he habitually resides:
  - ♦ benefits in kind (ie medical treatment) provided, on behalf of the social insurance agency of the Member State to which he has been paying contributions, by the social insurance agency of the Member State where he habitually resides in accordance with its legislation as though he were insured with that agency; and
  - ♦ cash benefits provided by the social insurance agency of the Member State to which he has been paying contributions in accordance with its own legislation. (However, if the two agencies agree, the agency of the State in which he resides may provide benefits on behalf of the other agency.)<sup>2</sup>

If such a person is temporarily resident in, or moves to, the State to whose social insurance agency he has been paying contributions, he is entitled to benefits in accordance with that State's legislation, even if he has already received benefits from the other agency.

2. A frontier worker (ie a worker who crosses daily (or at least weekly) from one Member State to another for work) may obtain work injury benefits from the social insurance agency of the Member State, to which he had been paying contributions in accordance with its legislation, as though he were residing in that State.
3. An employed or self-employed person who suffers an accident at work or contracts an occupational disease and who:
  - ♦ is temporarily resident in a member State other than the State to whose social insurance agency he has been paying contributions; or
  - ♦ after becoming entitled to benefits chargeable to the social security agency of the State to whose social insurance agency he has been paying contributions, is authorized by that agency to return to the State where he is habitually resident, or to move to reside in another Member State (Authorisation may be refused only if the person's move would be prejudicial to his state of health or medical treatment.); or
  - ♦ is authorized by the social security agency of the State to whose social insurance agency he has been paying contributions to go to another Member State to receive appropriate treatment for his condition there (Authorisation may not be refused if the treatment cannot be given to the person in the State where he resides.);

is entitled to:

- ♦ benefits in kind (ie medical treatment) provided, on behalf of the social insurance agency of the Member State to which he has been paying contributions, by the

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<sup>1</sup> This does not require a Member State to provide work injury benefit to a self-employed person where its legislation does not provide for work injury benefit for self-employed persons.

<sup>2</sup> An example would be if a person normally resident in France was working and paying social insurance contributions in Germany and suffered a work accident there. On return home to France, he would be entitled to medical treatment provided by the French agency on behalf of the German agency and to cash benefits provided by the German agency (unless the two agencies agreed that he should receive the benefits from the French agency). If he subsequently went back temporarily to Germany he would receive medical treatment provided by the German agency.

social insurance agency of the Member State where he temporarily or habitually resides in accordance with the legislation of the Member State to which he has been paying contributions; and

- ♦ cash benefits provided by the social insurance agency of the Member State to which he has been paying contributions in accordance with its own legislation. (However, if the two agencies agree, the agency of the State in which he resides may provide benefits on behalf of the other agency.)
4. An accident while travelling that occurs in a State other than the State to which he has been paying contributions is to be treated as though it had occurred in that State. (Whether work injury benefit would be payable would then depend on whether that State's legislation provided for entitlement in respect of accidents while travelling.)
  5. If a person who has contracted an occupational disease has undertaken in more than one Member State a work activity likely to cause that disease, the benefits that he or his survivors may claim are awarded exclusively under the legislation of the last of those States, whose conditions for entitlement are satisfied. However, if a State's legislation requires:
    - ♦ the disease to have been first diagnosed in that State, or
    - ♦ the disease to have been diagnosed within a specified time after completing that activity, or
    - ♦ that the activity was undertaken for a specified length of time,the condition is treated as satisfied if respectively
    - ♦ the disease was first diagnosed in another Member State, or
    - ♦ account is taken of that activity completed under any other State's legislation, or
    - ♦ that the length of time in aggregate that the activity was undertaken in all Member States.

Exceptionally, if the occupational disease is sclerogenic pneumoconiosis (and certain other chest diseases), the cost of providing cash benefits is divided proportionately between the agencies of the States where the relevant activity was undertaken in accordance with the length of time undertaken in each State.

6. If a state's legislation provides that the calculation of cash benefits is based on average earnings or standard earnings in that State, the State's agency must determine average earnings or standard earnings exclusively in relation to earnings paid during periods under that State's legislation. If a State's legislation takes account of the number of member's of the claimant's family, account must be taken of such members who reside in another Member State.
7. If the legislation of a Member State, to which a person who has sustained an accident at work or is suffering from an occupational disease has been paying contributions, provides for meeting the cost of transporting such a person to his place of residence or hospital, the social insurance agency of the State must meet the costs of transporting the person to the equivalent place in the Member State where the person resides, provided, except in the case of a frontier worker, the agency authorises the transfer. Similar provision applies in relation to the transporting of the body of a person killed as a result of a work injury or occupational disease to the place of burial in another Member State where the deceased was residing.

8. If an employed or self-employed person has received, or is receiving, benefit under a Member State's legislation for an occupational disease and that disease is aggravated, the following provisions apply:
  - ♦ If the person has not, while receiving benefits, engaged in an occupation, under another Member State's legislation, likely to cause or aggravate the disease, the agency of the Member State that is paying the benefit must meet the cost of benefits to take account of the aggravation;
  - ♦ If the person has, while receiving benefits, engaged in an occupation, under another Member State's legislation, likely to cause or aggravate the disease, the agency of the Member State that is paying the benefit must meet the cost of benefits without taking account of the aggravation and the equivalent agency in the state where the subsequent activity took place, must grant a supplement equal to the difference between the rate that would have been paid under its own legislation before the aggravation and what would have been payable afterwards;
  - ♦ Exceptionally, if the disease is sclerogenic pneumoconiosis (and certain other chest diseases) and the beneficiary is not entitled to benefit under the second Member state, the agency of the first Member State must pay the difference, but with the second Member State meeting the cost.
9. If the Member State, eg Netherlands, where the person happens to be, does not provide an insurance against accidents at work or occupational diseases, the equivalent benefits must be provided, the social insurance agency of the Member State where the person temporarily or permanently resides must provide benefits in kind (medical treatment) in the event of sickness.
10. The agency of the Member State to which contributions have most recently been paid must reimburse the agency of a state that provided benefits in kind (medical benefits), but the two agencies may agree to waive reimbursement.
11. The provisions above apply to students as to employed or self-employed workers.