REPLIES TO THE QUESTIONNAIRE

Lithuania

Disabilities and occupational diseases: Questionnaire of the 4th Committee (2013)

General context of the questionnaire

Regardless of the eventual reimbursement of the preventive and curative health-related costs, there is the problem of providing a replacement income to the worker when he is unable to carry on his employment and earn his own income due to an illness or an accident.

Questionnaire

[1] What are the causes which give the right to the income replacement indemnities that are paid as a result of an inability to work?

According to the Law on Social Insurance against Accidents at Work and Occupational Diseases income replacement indemnities are paid in these cases:
1. Accidents at work.
2. Accidents on the way to or from work.
3. Occupational disease.

According to Law on Sickness and Maternity Social Insurance sickness benefit is paid to the individual who is temporarily incapable for work due to disease or accident, who takes care of a patient or in other cases stipulated in law to compensate his lost income from work.

On 1 January 2000, the Law on Social Insurance against Accidents at Work and Occupational Diseases came into force stipulating that the burden of payment of the benefits related to accidents at work is transferred from the “employer’s shoulders” to the State Social Insurance Fund “shoulders”. The type of insurance against accidents at work is based on the solidarity principle: the employer pays the social insurance contribution for accidents at work for all employees, while the benefit is only paid to the individuals who suffered during the accident. The Law states that this type of insurance covers hired employees, students of vocational schools, students of high and higher education schools at the institution or company during their vocational (practical) training as well as individuals referred by labor exchanges for re-qualification in companies and individuals at social and psychological rehabilitation facilities during work and prisoners during work.

The Law on Social Insurance against Accidents at Work and Occupational Diseases states the following types of benefits: benefit for the accident or occupational disease, lump-sum benefit, periodic benefit and benefit in the case of death of the insured.

[2] Does it make a difference whether the inability is caused by a handicap, illness or accident (as a result of a professional activity or not)?

No, there is no difference. Social insurance system covers all of there issues.
[3] Does the employer need to take care of all or part of the compensation for incapacity resulting from an occupational disease of one of his workers?

No, Insurance against accidents at work and occupational diseases covers compensation. But employer pays the social insurance contribution for accidents at work for all employees, while the benefit is only paid to the individuals who suffered during the accident or occupational diseases.

- In case of an occupational disease, how is the disease found, recognized and controlled? How does the worker get the compensation for his occupational disease?
  Occupational diseases are determined by the doctors. Employee who is not capable to work due to occupational disease and gets compensation, is obliged to follow the doctors appointed treatment. Worker gets the compensation from the first day that occupational disease was diagnosed.
- Specify the conditions and duration of the compensation.
  Employee who is not capable to work due to occupational disease and gets compensation, is obliged to follow the doctors appointed treatment. If worker does not follow the treatment, payment of the compensation can be terminated.
  Duration of compensation: compensation is paid all the period of time from the diagnose until the treatment is over or untill working capacity is being defined (in this case other type of compensation begins to be paid).

[4] Similarly, does the employer have to take care of all or part of the compensation for incapacity resulting from an accident at work of his employee?

No, Insurance against accidents at work and occupational diseases covers compensation. But employer pays the social insurance contribution for accidents at work for all employees, while the benefit is only paid to the individuals who suffered during the accident or occupational diseases.

- In case of incapacity resulting from an accident at work, specify the conditions and duration of the compensation.
  As it was mentioned before, Employee who is not capable to work due to accident at work and gets compensation, is obliged to follow the doctors appointed treatment. If worker does not follow the treatment, payment of the compensation can be terminated. Duration of compensation: compensation is paid all the period of time from the moment of accident at work until he recovers or untill working capacity is being defined (in this case other type of compensation begins to be paid).
- If the employer does not take care of the compensation, how is the incapacity to work resulting from an accident at work compensated?
  Compensation is paid from the Social Insurance fund.

[5] If the illness is not caused by a professional activity, is the worker still entitled to an income during the incapacity to work? If yes, to what income replacement indemnity is the worker entitled and who pays for this?

If a person falls ill, he is entitled to the sickness benefit from the first working day without any waiting period. According to Law on Sickness and Maternity Social Insurance sickness benefit is paid to the individual who is temporarily incapable for work due to disease or accident.
[6] What are the conditions to be met by the worker to qualify for an income replacement indemnity (eligibility: training and payment of contributions for example; conditions for grant: being unable to work and have ceased all activity, for example)?

Due to workrs condition, he must be unable to work.

In order to receive sickness insurance worker must have insurance period of 3 months during the last year or the insurance period of 6 months during the last two years are entitled to receive the sickness benefit.

[7] What formalities must be met by the worker to prove his incapacity to work and have it recognized?

The basis for compensation is disability certificate and other documents, proving the accident or occupational disease.

[8] How is the amount of income replacement indemnity to which the worker is entitled determined? (for example: a percentage of the lost remuneration)? Does the worker's family situation affect the amount of compensation (whether or not the worker has family members who depend on him for their income for example)?

The amount of income replacement indemnity is determined in the Law on Social Insurance against Accidents at Work and Occupational Diseases. If a worker temporarily becomes unable to work due to accident at work or occupational disease, compensation for this period of time is 100 % of compensatory wage.

[9] Is it possible to cumulate the income replacement indemnity with another income or social benefits?

No, if worker satisfies the conditions of another social benefit, he has to choose between them.

[10] How is the medical control of the incapacity to work done and by whom?

In Lithuania there are rules of conduct for workers that are unable to work. They must follow these rules in order to get income replacement indemnities. The medical control is done by workers doctors or inspectors of The State Social Insurance Fund Board.

[11] How is the income replacement indemnity granted and terminated (for example: is it by a decision taken by the control authority and communicated to the worker)?

If worker is not able to work due to accident at work or occupational illness, decisions to pay compensation is taken by the Board of regional Social Insurance Fund.

Is there any appeal against such decisions? Before which court?

Yes, these decisions can be appealed before regional administrative court.
[12] Does the sick worker have protection against dismissal or is the employer permitted to terminate the employment agreement of sick workers at any time?

Yes, sick worker has the protection against dismissal.

[13] If the worker has protection against dismissal, please specify this dismissal protection.

Labour Code of Lithuania provides the protection against dismissal for sick workers. According to Article 133 of Labour Code workers who have lost their working ability due to injury or occupational disease, are protected against dismissal all the time of rehabilitation or until his disability to work is recognized. If the employee's health deteriorated due to the above reasons and he is not capable of working in earlier work and there is no possibility of his transfer to another adequate work he shall be paid the statutory amount of sickness benefit. This sickness benefit is paid until employee’s medical conclusion is determined. If the medical conclusion determines that worker can not do his former functions, his employment contract is terminated right away and shall be paid severance pay of his average pay of two moths.

There is a different situation with workers who become temporarily unable to work for reasons unrelated to occupational disease accident at work. In this case the employment contract is not terminated if worker is absent not more than 120 consecutive calendar days or not more than 140 days during the last twelve months.

[14] Does it make a difference to the dismissal protection whether the worker is unable to work as a result of handicap or chronic illness instead of a «normal illness»?

Yes, the protection is different, as it was mentioned above.