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.

In Israel this matter is covered by the following Acts and regulations:
The Sick leave Act – 1976 as well as collective agreements, that cover the entire workforce, that enforce a mandatory private insurance on the employer to provide for the benefit of the employee.

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?

In Israel, the framework of social security, labor law and collective agreements at the workplace provide that any case of disability raises the right for income replacement, regardless of the cause. However, the scope of this right varies in accordance to the reasons for the disability.

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?

The National Insurance Act (new version1995) provides a formula for compensation in cases of disability caused by a handicap, illness or accident as a result of a professional activity. This formula provides compensation based on the actual earnings of the injured party for the duration of the time of the disability. This, as opposed to cases in which the disability is not work related, in which case, the injured person is entitled to compensation based on a fixed amount determined by law. That stated, based on the framework of collective agreements, the entire workforce is covered by additional mandatory insurance that ensures that the injured party will enjoy compensation based on his/her actual earnings at the time of disability.

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?

For the first 14 days of the disability resulting from an occupational disease or accident in the workplace, the employer is directly responsible for compensating the employee. After that period of time
and for the duration of the period of disability, the employee will be compensated by the national insurance and the employer is released from further obligations of compensation. This however, does not prevent the employee from filing a civil action against the employer for direct compensation for damages over and above the actual loss of earnings cause by the work-related disease/accident.

a. **In case of an occupational disease, how is the disease found, recognized and controlled?**
   The first stage is a medical finding of an illness or disease. The second stage is to determine the connection between the illness and the work place. This is done in accordance to the National Insurance Act, which contains a list of illnesses/diseases and beside each entry, the related work conditions. A worker who suffers from one of the illnesses listed and works under the related conditions is recognized as suffering from an occupational disease. If it is not listed the employee has to prove the connection between the working condition and the disease he is suffering. The illness is treated within the framework of the health service chosen by the employer.

b. **How does the worker get the compensation for his occupational disease?**
   Depending on the severity of the disability, the employee receives compensation for the loss of earnings caused by the illness directly from the national insurance either on a monthly basis or as a one-time payment. (under to 20% disability one time payment. Over 20% disability monthly payment)
   If a civil action is filed for damages over and above the loss of earnings caused by the occupational disease, the employer is directly responsible to compensate the worker according to the outcome of the action taken. (From the compensation sum there will be a deduction of the income replacement indemnities paid by the National Insurance)

c. **Specify the conditions and duration of the compensation.**
   In general, compensation is paid as long as the employee is unable to return to his/her previous occupation as a result of the occupational illness. (Until the retirement age)
   For the first 6-months period, the compensation is paid based on a medical finding provided by the health service of choice of the worker. After this 6-month period, the worker is requested to appear in front of a medical panel, which works in accordance with the National Insurance Act. The panel will determine if the worker is unable to resume his/her previous occupation or if there is any temporary or permanent disability caused by the work-related illness.

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?**
See response to question 3. It works the same for accident at work. Covers all accidents at work place, as well as accidents on the way from home to work and back from work to home.

**a. In case of incapacity resulting from an accident at work, specify the conditions and duration of the compensation.**
See response to question 3c.

**b. If the employer does not take care of the compensation, how is the incapacity to work resulting from an accident at work compensated?**
Since the employer is not directly responsible for compensating the employee, this question does not arise.
An employer who doesn't pay the insurance premium is exposed to legal procedures. The employee will never be affected he will always be paid by the National insurance.

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?**
Yes. If the incapacity is for over three months, the employee is entitled to compensation from two sources; (ie, Double compensation) one being the National Insurance (a fix amount not related to the income of the employee) and the second being the mandatory private insurance that the employer is obliged to provide under the framework of collective agreements. This private insurance is based on the actual earnings of the employee.
Cases in which the incapacity is for short periods (i.e., a few days), the employer is obligated to cover the absence up to a maximum of eighteen days a year at full pay. The employee is allowed to accumulate this right over the years, if not used, for a maximum amount of 90 days.

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)?**
The main condition is that the disability prevents the employee from carrying out any work, not necessarily in his/her chosen occupation. There is no demand for the worker to take part in any training, although the law does provide incentives for the worker to do so.
In the case of the additional mandatory private insurance provided by the employer, the employee has to meet the conditions specified by the insurance company.

7. **What formalities must be met by the worker to prove his incapacity to work and have it recognized?**
The employee has to provide a medical assessment provided by the health service of his choice.
8. How is the amount of income replacement indemnity to which the worker is entitled determined? (for example: a percentage of the last remuneration)? Does the worker's family situation affect the amount of compensation (whether or not the family members who depend on him for their income for example)?
The question must be addressed in two different situations. The first case is that in which the compensation is based on the actual earnings of the employee (i.e., compensation by the national insurance for work-related disability or compensation provided by the mandatory private insurance in cases where the inability is not work related). In this case the worker's family situation and the income of the family have no effect.
The second case is that where the compensation is provided by the National Insurance Act, regardless of the income of the injured party, in cases of non-work related disability. In this case, the family situation and the income of the family have an effect on the amount the injured party is entitled to. There is a fixed formula that increases the entitled amount according to the number of family members dependent on the injured person and the income of the family.

9. Is it possible to cumulate the income replacement indemnity with another income or social benefits?
The answer is determined by the source that provides the compensation to the employee (i.e., National Insurance or the private mandatory insurance) and whether the disability is work related or not. An employee can suffer from different disabilities work related and non-work related. The income replacement indemnity that he gets for the 2 types disabilities can be cumulated.
In case of non-work related disease the employee is receiving an income replacement indemnity from two sources – the mandatory private insurance and the National insurance. The sums are cumulated.

10. How is the medical control of the incapacity to work done and by whom?
Cases in which the disability is for short periods of time, the medical control is provided by the health service of choice of the worker.
Cases in which the disability is for longer periods of time (over 90 in non-work related disease and 180 days in work related) (i.e., compensated for under the National Insurance Act), the medical condition of the injured party is determined by a medical panel established by the National Insurance Act itself.
Within the framework of the mandatory private insurance, there are medical panels that address the question of incapacity of the employee to integrate back into the workplace.

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)?
In the situation where the employer is directly responsible to compensate the employee (i.e., absence for short periods of time) the
information regarding the scope of the right of compensation is related in the salary slip and the compensation is paid directly to the worker in his monthly salary according to the medical assessment. (According to the Sick Leave Act)

In cases where the compensation is provided by the National Insurance, the income replacement is paid directly to the injured party by the National insurance for the duration of the disability according to the decision of the medical panel relating to the disability. This information is passed on to the injured worker. There is a similar procedure regarding compensation paid by the mandatory additional insurance. According to the disability (measured in percentages) the employee is receiving his income replacement. A full income replacement is 75% from the actual salary.

a. Is there any appeal against such decisions? Before which court?
   There is a process of judicial review by the district labor court over all decisions.

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?
   Currently, this question is still being discussed and the scope of the right of protection against dismissal of the disabled worker is being debated. However, this much can be said, exercising the right of dismissal has to be carried out in good reason and good faith. In situations in which the employer is under direct responsibility to compensate the worker in time of illness, exercising this right of dismissal is clearly not in good faith and the dismissed worker can file for compensation. In cases of disability, the employer is under obligation to take reasonable steps in order to insure the accessibly of the workplace to the worker. The labor court has the authority to enforce labor relations in the case of unlawful dismissal.

13. If the worker has protection against dismissal, please specify this dismissal protection.
   See answer above 12.

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"?
   No. There is no difference. Whether it is an employment injury or an accident / illness unrelated to the job, the employee has a right to return to work when he can again occupy his position or an equivalent position. This matter is considered and balanced in respect to time of absent of the employee and his ability to return to work, avoiding discriminatory dismissal on the basis of a person's disability.