



**Finnish Institute of
Occupational Health**

SOCIAL SECURITY WITH A SUSPECTED OCCUPATIONAL DISEASE

**In accordance with the new Occupational Accidents, Injuries
and Diseases Act 459/2015 that went into effect on 1
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1. General

The new Occupational Accidents, Injuries and Diseases Act (TYTAL 459/2015) and the Farmers' Accident Insurance Act (MATAL 873/2015) that also applies to grant recipients (artists and scientists) both went into effect at the beginning of 2016. A new act on compensation to students for illness or injury sustained during work placement 460/2015 also came into effect. The new laws apply to occupational accidents and occupational diseases that occur after 1 January 2016.

The date of occurrence of occupational diseases is considered to be the date on which the person seeks treatment for the first time for a disease that is suspected of being an occupational disease.

In everyday speech, occupational diseases often mean the same as work-related diseases. However, work-related diseases are a broader concept than compensable occupational diseases. An occupational disease is a disease that has likely been primarily caused by a physical, chemical or biological factor related to work. Identifying a disease as an occupational disease requires a medical examination where enough information is available on the worker's working conditions and the conditions of exposure at work. An occupational disease is identified based on both medical and legal grounds. The occupational disease compensation system is based on the Occupational Accidents, Injuries and Diseases Act 459/2015. The liability to pay compensation is determined based on the employment where the exposure has primarily taken place.

Work performed in Finland must legally be insured for occupational accidents and diseases. The nationality or domicile of the employee or the domicile of the employer is not relevant. Self-employed persons may similarly voluntarily insure themselves for occupational accidents and diseases pursuant to Section 188 of the act. The self-employed persons voluntary accident insurance is tied to the validity of the YEL insurance. The statutory workers' compensation insurance takes precedence over all other social security.

1.1. Starting the examination process

A claim case is initiated when an insurance institution has received a report of a loss event from an employer. The injured person can also initiate the claim case himself/herself by delivering a written report to the insurance company. A public or private healthcare unit can also deliver the report to the insurance company. Examinations must be based on the evaluation of a physician who is familiar with the working conditions. The insurance company has the right to use a payment commitment to designate the medical care provider for the injured person.

1.2. Compensation related to a suspected occupational disease

Insurance companies compensate for examination expenses arising from the examination of an occupational disease and the patient's travel expenses using public transport to either the closest medical care provider or one stated in the payment commitment. If the journey has been taken with a private car, half of the tax-exempt kilometre allowance annually confirmed by the Tax Administration is reimbursed to the injured person as travel expenses. Travel expenses are reimbursed even if the

disease does not turn out to be a compensable occupational disease. Expenses that have arisen from a doctor's appointment required to investigate the disease or injury and examinations performed and ordered by the physician are compensated for even if an occupational disease is not detected. The employee is paid compensation for loss of income for the duration of the examination and duration of the incapacity to work, in the case of a suspected occupational disease pursuant to Section 38 of the act. Compensation is paid for a maximum of 7 days if no occupational disease is detected in the examinations. The employer is reimbursed the amount that the employer has paid as wages to the employee for that period.

Sickness allowance can also be applied for from the Social Insurance Institution of Finland (Kela) with a delay certificate obtained from an insurance company, if a justifiably suspected occupational disease or an occupational disease has been detected in examinations. The insurance company must commence the claim processing no later than seven working days after the institution of the claim. The insurance institution must share its decision within a month of receiving all required documentation.

The role of occupational health care is to examine and monitor coping at work if an occupational disease is not detected. An occupational health consultation is used to investigate what could be done with the help of work arrangements. If work arrangements cannot be utilised or would be inadequate, the possibilities for vocational rehabilitation by a pension company or by Kela must be investigated. If vocational rehabilitation is rejected, the unemployment benefit can be used for studies that improve employment opportunities and supplement previous education. You can also receive a subsidy for arranging working conditions of a disabled employee from TE Services.

2. Occupational disease compensation

If an occupational disease is detected, the claim process works the same way as with an occupational accident. When compensating for an occupational accident, the right to compensation goes into effect on the day the occupational accident occurred. For occupational diseases, the date of occurrence is determined. The date of occurrence is considered to be the date that the injured person first sought medical attention due to a disease that was later determined to be an occupational disease, unless there is some other special reason to designate it as being on another day.

The workers' compensation insurance compensates for necessary medical treatment expenses, medication, treatment supplies, travel expenses pursuant to the model described above and necessary accommodation expenses related to the occupational disease, as well as personal aids that help maintain the ability to work, medical rehabilitation that may include rehabilitation consulting and guidance, evaluation of need for rehabilitation, rehabilitation examination, therapy and adaptation training aiming at improving and maintaining functional capacity and other measures promoting rehabilitation. Medication is reimbursed in full. Medication is paid for by the patient and compensation is sought from the insurance institution, or a payment commitment for reimbursement for the medication is requested from the insurance company. The patient can invoice medical treatment expenses and travel costs from the insurance company. Reimbursement funds must be claimed within a year of the expenses being incurred. The time limit is counted from the date that the claims process was initiated, at the earliest.

Loss of income is compensated by a daily allowance, workers' compensation pension or rehabilitation allowance. Compensation for loss of income is taxable income. The date of occurrence defines the annual earnings that compensations are based on. If the earnings differ by at least 20% from the average earnings received in the three years preceding the claim event (reference period), the annual earnings are considered to be the average value calculated on the basis of the earnings received for the reference period and the earnings calculated pursuant to subsection 1. Reference period earnings are taken into account as the amount that they would be without exceptional reasons affecting them, such as parental leave, job alteration leave, military service, civilian service, part-time retirement, sick leave or temporary unemployment or equivalent reasons. The income level can also be determined based on the minimum annual earnings. (See Sections TyTAL § 71 - § 79.) The patient may also have the right to a disability allowance if the occupational disease causes permanent general disability.

A person suffering from an occupational disease may also have the right to compensation under other legislation, such as health insurance compensation, earnings-related pension, national pension or compensation paid under the Motor Liability Act. Other compensation systems only pay benefits if they are larger than the compensation pursuant to the workers' compensation insurance. In these cases the amount exceeding the workers' compensation insurance is paid.

2.1. Daily allowance

The daily allowance compensation period of a person suffering from an occupational disease is one year, starting from the date of occurrence. Any sick leaves during that period are compensated for as the daily allowance. However, the person is not entitled to the daily allowance if his/her working capacity is reduced by less than 10%. The person must be incapable of working for at least three consecutive days, not counting the date of occurrence. The amount of the daily allowance is 1/360 of the annual earnings of the person suffering from the occupational disease.

If annual earnings are less than the minimum annual earning amount, which is EUR 14 360, the compensation is raised to match the minimum annual earnings. The daily allowance for the first four weeks of suffering from the disease corresponds to the wages paid for the same period. Daily allowance is usually paid retroactively. Some of the daily allowance is usually paid by to the employer or to Kela against the already received wages during sick leave or health insurance daily allowance.

The Health Insurance Act and the Occupational Health Care Act both changed on 1 June 2012. The employer must report an employee's absence due to sickness to occupational health care when the absence has lasted for a month, at the latest. The employer must, together with the employee and occupational health care, examine the employee's possibilities to continue working.

Evaluation on the remaining capacity to work and a statement to Kela must be made by occupational health care, at the latest, when sickness allowance has been paid for 90 business days that count towards the maximum period. Sickness allowance must be applied for within two months of the beginning of the absence.

2.2. Workers' compensation pension

When the incapacity to work of a person suffering from an occupational disease has lasted for over a year, or if there are long or short sick leaves over a year after the date of occurrence, compensation for the loss of income is paid as workers' compensation pension. However, a workers' compensation pension decision does not mean that the employee goes from working life to retirement. Instead, it is a compensation for the loss of income that is used to compensate for loss of income for different lengths of periods of incapacity to work that are caused by a detected occupational disease. The full workers' compensation pension is 85% of annual earnings. When a person receiving workers' compensation pension turns 65 the full workers' compensation pension is reduced to 70%. Workers' compensation pension can also be paid as partial workers' compensation pension that is used to compensate for a reduction in earnings.

A full-time student is paid a daily allowance or workers' compensation pension for full incapacity to work if an occupational disease restricts studies.

2.3. Rehabilitation allowance

A person suffering from an occupational disease has the right to a rehabilitation allowance for the duration of vocational rehabilitation. The rehabilitation allowance is paid at the amount of the daily allowance if it has been under a year from the date of occurrence, or at the amount of the workers' compensation pension if it has been over a year since the date of occurrence. After vocational rehabilitation has ended, the rehabilitee may have the right to receive rehabilitation allowance for up to six months.

2.4. Disability allowance

Disability allowance is paid to an employee who suffers from permanent general functional limitation due to disease or injury caused by an accident. General functional limitation refers to decreased functional capacity caused by an accident or disease. Functional capacity is compared to that of a healthy person of the same age. Permanent functional limitation can be evaluated after a year from the occurrence of the accident or occupational disease, at the earliest.

The annual amount of the disability allowance is determined based on the disability category of the injury or disease from the EUR 12,820 basic amount. The injuries and diseases causing general functional limitation have been categorised into 20 disability categories to help determine the amount of disability allowance. Disability allowance does not have to be applied for. Instead, the insurance company has a responsibility to determine the decision on its own initiative. If the insurance company has not made a decision, the patient can request one later.

The disability allowance is paid as a lump sum for disability categories 1-5. For disability categories 6-20, the disability allowance is paid as continuous compensation. For diseases that are known, based on medical experience, to get worse and quickly lead to death a complete sum corresponding to disability category 10 is paid as disability allowance.

2.5. Appealing on a claim decision

A claim decision always comes with instructions for appeal. If you are not satisfied with the decision of the insurance company, you should first contact an insurance institution. The Employment Accidents Appeal Board, the Insurance Court and the Supreme Court, for which one must first get a leave of appeal, act as the appeal authorities.

If the patient is not satisfied with the decision of the insurance institution, the decision can be appealed from the Employment Accidents Appeal Board with a written appeal within 30 days of receiving the decision. Despite an appeal, the decision of the insurance institution must be followed until the matter has been resolved with a final decision.

Further information can be found at the Workers' Compensation Centre <http://www.tvk.fi/en/> (Statutory workers' compensation insurance).

The Patients Ombudsman can be contacted if the patient is dissatisfied with the performed examinations.

3. If an occupational disease has been detected

The detection of an occupational disease causes changes at work and life in general, which have to be weighed taking one's situation in life into consideration.

When an occupational disease has been detected, and if the patient is employed, the patient usually contacts occupational health care and his/her supervisor to clarify his/her work situation. A physician evaluates restrictions to work caused by the occupational disease and usually states his/her opinion on whether the patient can continue in their current employment or if work arrangements are required or if the patient can continue working with the help of aids or protection. If the employer cannot redeploy the person to a different position, vocational rehabilitation to find a suitable profession and to support employment may be required.

Occupational health care or social workers and rehabilitation counsellors from the health care sector may help with matters concerning starting vocational rehabilitation by, for example, telling the worker in question about different vocational rehabilitation options and giving support with the process of beginning vocational rehabilitation.

3.1. Vocational rehabilitation

The insurance institution must evaluate the need for starting vocational rehabilitation within three months of when the incapacity to work started, and at least every three months afterwards. The patient is obliged to contribute to carrying out the evaluation regarding the vocational rehabilitation and the rehabilitation measures, and to, without delay, undergo examinations obligated by the insurance institution.

In the workers' compensation system, rehabilitation refers to measures that are used to support the return to work and coping at work of the rehabilitee, among other

things. A person suffering from an occupational disease has the right to receive rehabilitation if his/her capacity to work or possibility of earning are lowered due to the occupational disease. Vocational rehabilitation aims to get the person suffering from an occupational disease back to employment suitable for him/her in either his/her current profession or a new one.

When evaluating the need for rehabilitation the age, profession, previous activities, education and living conditions of the patient, as well as limitations caused by the disease and possibilities to return to work or the professions are all taken into account. The rehabilitation of an occupational disease patient may include rehabilitation guidance and counselling, evaluation of functional capacity, capacity to work and need for rehabilitation, rehabilitation examinations, therapy, adaptation training, work trials, work training, education towards work or profession, financial support, aids and devices. The need for rehabilitation and its appropriateness is considered on a case-by-case basis.

3.2. Starting the rehabilitation process

When a patient receives the information for the need for vocational rehabilitation, the patient must contact his/her employer and occupational health care provider. The first step is usually to investigate the employer's options to offer the employee work that takes into account the limitations caused by the disease. The initiation of rehabilitation can also be done by the patient with the support of, for example, the employer and occupational health care, other health care, social services authority or employment authority. The patient can also contact his/her own insurance company after receiving a decision on an occupational disease.

The 'rehabilitation path' begins in practice with a consultation with the employer and occupational health care. If new employment or profession is needed, occupational health care usually helps with planning and initiating vocational rehabilitation. It is good to start the planning process right after the occupational disease has been detected and the attending physician thinks that it is not desirable for the patient to continue in current employment for health reasons. (See www.toissaterveena.fi) Before participating in rehabilitation the patient must also take into account his/her situation in life, resources and social commitments (family situation, financial possibility to relocate, location of residence, etc.). The patient should not resign before there is confirmation of the occupational disease issue, continuity of employment or vocational rehabilitation. The employer does not usually have the right to dismiss the employee due to a disease, injury or accident, unless the employee's capacity to work has decreased significantly and for an extended period due to the disease. (See the Employment Contracts Act, www.finlex.fi)

The patient is the foremost expert in his/her own rehabilitation process, and therefore the patient needs to take an active role in trying to find a suitable profession. Rehabilitation expenses are compensated under workers' compensation insurance following its norms and is also used to pay rehabilitation allowance for the duration of the rehabilitation evaluation and the rehabilitation period. The rehabilitation allowance corresponds to the daily allowance or the workers' compensation pension if the vocational rehabilitation has been approved by the insurance company.

3.3. After rehabilitation

Rehabilitation evaluations and solutions are always personal and affected by the rehabilitee's needs and many other societal factors, such as employment in the labour market region and educational opportunities.

If it is found that there is no need for rehabilitation, or if after receiving training/education the rehabilitee/occupational disease patient does not find employment, he/she registers as an unemployed jobseeker at the Employment and Economic Development Office (TE Services). He/she may have a work limitation caused by an occupational disease, but it has also been evaluated that he/she has enough capacity to work left.

After the evaluation of the need for rehabilitation, a compensation solution may also be suggested. In these cases the patient may, in addition to occupational disease compensation, also apply for, for example, disability pension or partial unemployment benefit.

4. Further information on matters concerning occupational diseases

If you want more information on matters relating to compensation of occupational diseases you can contact your own insurance company. The occupational disease decision usually contains the contact information of the person who last handled the claim.

Patient ombudsmen, health care social workers, employees' representatives/trade unions, patient organisations and other parties can also offer help with matters concerning claims and appeals. Kela and employment pension institutions also offer advice on matters under their field of operations. In matters related to your employment relationship, you can contact your supervisor, employees' representative, trade union or, for example, your occupational safety district.

If you want further information on rehabilitation, you can contact, for example, occupational health care, a health care social worker or rehabilitation counsellor, or your own insurance company. An appointment with a social worker of the Finnish Institute of Occupational Health can be scheduled during the examination period at the Finnish Institute of Occupational Health if more information on rehabilitation matters and social security is desired.

5. Important contact information

Insurance companies and pension companies

www.toissaterveena.fi

www.tvk.fi The Finnish Workers' Compensation Center/ Statutory workers' compensation insurance

www.tela.fi (The Finnish Pension Alliance TELA ry)

www.tapaturmalautakunta.fi Employment Accidents Appeal Board

www.finlex.fi National database of acts and decrees – up-to-date legislation

www.te-services.fi Employment services and vocational guidance

www.oppisopimus.net Apprenticeship training (in Finnish)

www.studyinfo.fi

www.kela.fi Information on benefits provided by Kela

www.heli.fi The Organisation for Respiratory Health in Finland – information on rehabilitation, local organisations and their operations, indoor air quality, asbestos patients' health reform and social security of people suffering from respiratory conditions (publications/guides/other guides and material. Mostly in Finnish).

www.allergia.fi Allergy and Asthma Federation – information on allergies and rehabilitation

www.fine.fi Advice in issues related to insurance, banking and securities

www.etk.fi Finnish Centre of Pensions