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**INFORMATION BOOKLET**

**OCCUPATIONAL ACCIDENTS  
IN THE PRIVATE SECTOR:  
YOUR RIGHTS  
(BELGIAN LAW ON OCCUPATIONAL ACCIDENTS  
OF 10 APRIL 1971)**



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# OCCUPATIONAL ACCIDENTS IN THE PRIVATE SECTOR: YOUR RIGHTS

## INTRODUCTION

*You had an occupational accident?*

*A close relative died in an occupational accident and you are entitled to compensation?*

We prepared this information booklet for you.

It is intended to inform you on the Belgian law on occupational accidents in the private sector (law of 10 April 1971). It will also help you to get the compensation you are entitled to.

This booklet answers 5 questions you are likely to ask yourself:

1. *How does the Belgian law on occupational accidents in the private sector affect me?*
2. *What is an occupational accident? What is an accident on the way to or from work?*
3. *What to do when I have an occupational accident?*
4. *What can I claim if I have an occupational accident?*
5. *What is the compensation for a fatal occupational accident?*

Of course, this booklet does not pretend to answer every question.

So, if you are in any doubt or have any further queries, please feel free to contact us:

**Fedris**  
**Avenue de l'Astronomie 1**  
**1210 BRUSSELS**  
**Tel +32 2 272 20 00**  
[www.fedris.be](http://www.fedris.be)

You will also find the list of our special stand-bys on a separate sheet at the end of this booklet.

## Chapter 1 How does the Belgian law on occupational accidents in the private sector affect me (law of 10 April 1971)?

### 1.1. Basic rule

The Belgian law on occupational accidents of 10 April 1971 applies to any person subject to the Belgian social security scheme for salaried persons.

*It applies to **any worker bound by a contract of employment to perform, for remuneration, work for and under the control of another person.***

Are concerned:

- manual and intellectual workers, domestic staff, home workers, professional sportsmen under contract;
- apprenticeship trainees under contract;
- performing artists;
- temporary workers;
- babysitters,....

### 1.2. Are also concerned

The law was also extended to the following workers, though not subject to the Belgian social security scheme:

- domestic staff not mentioned above;
- student workers bound by a student employment contract;
- casual workers employed less than 8 hours/week in private homes to cover the household needs of the employer and his/her family (housekeepers, lady-helps, babysitters, gardeners, private drivers,...);
- workers harvesting some crops less than 25 days/year;
- activity leaders, managers and instructors dealing with social and cultural or sports activities;
- unpaid trainees doing an internship in a business under the organisation of an educational institution.



***The employment contract does not have to be in writing. The distinctive feature is the existence of work performed for remuneration and under the control of an employer.***

***The law on occupational accidents applies even if the employment contract is void*** (e.g. employment of school-age children or of foreigners without work permit, undeclared employment,...).

### 1.3. Are not covered

Are not covered by the social security scheme for salaried persons and thus not concerned by the law on occupational accidents:

- professions, traders and other freelancers;
- company managers;
- unemployed persons.

### 1.4. Other compensation schemes

Are subject to other compensation schemes for occupational accidents:

- the civil servants (in statutory employment, on probation, temporary, auxiliary or contract staff)  
***(law of 3 July 1967)***
- the military personnel ***(consolidated laws of 5 October 1948)***
- the SNCB (Belgian Railways) statutory staff ***(collective labour agreement)***
- the unemployed persons set back to work by local employment agencies (ALE – agences locales pour l'emploi) to carry out some activities for private persons or associations ***(ordinary law insurance policy granting the same advantages as the occupational accident law of 10 April 1971)***
- the unemployed persons on individual vocational training in a business or in a training centre ***(ordinary law insurance policy as well)***

If your activity is not included in one of the above-mentioned categories or if you are in any doubt, please feel free to contact us. You will find our address and telephone on page 4 of this brochure.

## Chapter 2 What is an occupational accident? What is an accident on the way to or from work?

### 2.1. What is an occupational accident?

According to the law, your accident is an occupational accident if it fulfils 5 conditions:

- there was a sudden occurrence;
- you suffered an injury;
- the sudden occurrence caused the injury;
- the accident occurred during the performance of your employment contract;
- the accident occurred because of the performance of your employment contract.

#### 2.1.1. How do we understand those terms?

##### a. *Sudden occurrence*

The sudden occurrence is the cause of the accident. This is what sets it apart from an occupational disease.

It occurs **within a short period of time**, whereas the occupational disease results from a **development**, a gradual deterioration of the worker's body. Examples of sudden occurrences: fall of a person, contact with fire, hit, explosion, collision, emotion caused by a threat, a quarrel,...

The occurrence does not necessarily need to be **abnormal**. According to settled case law the normal completion of the daily task can be regarded as a "sudden occurrence" for the application of the law on occupational accidents. A special element is however necessary as possible cause of the injury.

An injury resulting **only** from a state of ill health of the worker cannot be regarded as an occupational accident.



**b. Injury**

The injury can be **physical** (fracture, amputation, burn,...) or **mental** (nervous breakdown, memory impairment,...).

The injury can also be an **illness** that develops as a result of the **sudden occurrence**.

Example: hepatitis (*illness*) through needle stick injury (*sudden occurrence*)

There is no need for the injury to cause days off work or death. It only has to entail **medical care**.

Damage to **prostheses** only gives rise to compensation too. For example broken spectacles entitle you to compensation even without days off.

**c. The accident occurred during the performance of your employment contract**

The employment contract runs as soon as the employer can exercise his/her authority. Its performance is thus not restricted to working hours only.

Some accidents were for instance accepted as occupational accidents although they had occurred during breaks or parties organized by the company. The reason was that the employer could go on exercising his/her authority at the time of the accident.

**d. The accident occurred because of the performance of your employment contract**

Even if the accident occurs during the performance of the contract, it has to be **work-related** to give rise to compensation.

Example: an injury arising out of a work-related quarrel is considered as an occupational accident, but it is not if it results from a non-work-related one.

The law applies even if the accident results from a **serious fault** of the worker (example: the violation of safety rules).

The accidents caused **deliberately** by the worker are excluded.

### 2.1.2. What do you have to prove?

To be recognized as a victim of an occupational accident, you have to prove that:

- there was a sudden occurrence;
- you suffered an injury;
- the accident happened during the performance of your employment contract.

If you prove those 3 elements, it **automatically** means that:

- the sudden occurrence caused the injury;
- the accident happened because of the performance of your employment contract.



**The insurer may nevertheless try to prove that:**

- **the injury did not arise out of the sudden occurrence;**
- **the accident did not happen because of the performance of your employment contract.**

### 2.1.3. How to provide evidence?

Your statement is not enough in itself. It is only to be used as evidence if supported by other elements suggesting that the facts indeed happened as reported.

Here are some rules to be observed:

- Immediately report the accident to your employer, even if you did not stop working;
- Mention witnesses, whether direct (*those who witnessed the accident*) or indirect (*those who did not, but you have talked to about the accident*);
- Ask a physician to establish the injury, preferably as soon as possible.

## 2.2. What is an accident on the way to or from work?

Accidents on the way to or from work are considered as occupational accidents.

Your accident is an accident on the way to or from work if it fulfils 4 conditions:

- there was a sudden occurrence;
- you suffered an injury;
- the sudden occurrence caused the injury;
- the accident occurred on the normal journey to or from work.

The first 3 conditions are the same as those applicable to occupational accidents (see 2.1).

### 2.2.1. What is meant by “normal journey”?

The “normal journey” means the **journey between the worker’s home and work (place where s/he has to go to for occupational reasons)** or work and home.

It is not necessarily the shortest one. A longer journey may have different justifications (faster, less dangerous,...).

Under what conditions does the journey remain **normal** despite interruptions and detours?

- **Insignificant** interruptions or detours are not taken into account;
- **Small** interruptions or detours require a legitimate ground of justification in relation with daily life needs (e.g. visiting a hospitalized member of the family, shopping for the evening meal,...);
- **Significant** interruptions or detours require evidence of *force majeure*, such as an unforeseen or unavoidable occurrence.

The significance of interruptions or detours depends on how large they are in relation to the normal journey.

For instance, a detour of 1 km out of a total journey of 20 km is a small one. This one km is significant, however, if the normal journey to work is only 1 or 2 km.

The journey remains **normal** when the worker makes a detour to:

- pick up workers from the same region or bring them back home (**car-pooling**);
- drive children to and from **school** or a **day-care centre**.

### 2.2.2. Other “places of work”

A worker is also deemed to be on the “workplace” if s/he is:

- working as a union or workers’ representative, even outside working hours;
- attending a meeting of the works council or safety committee;
- attending training classes during normal working hours;
- visiting the safety coordinator or occupational physician before resuming work.

### 2.2.3. Other “ways to and from work”

Some journeys also considered as on the way to or from work, such as journeys:

- from the workplace to the place where the worker takes a meal, and vice versa;
- from the workplace to any place where the worker attends vocational training, and from that place back home;
- from the workplace or from home to the place where the worker attends trade union training, and vice versa;
- from one employer’s workplace to another employer’s workplace;
- from the workplace to the place where the worker receives his/her remuneration;
- to collect social security documents, clothing or tools after termination of the employment contract.

Since the list is non-exhaustive, please contact us if need be.

### 2.2.4. What do you have to prove?

To be recognized as a victim of an accident on the way to or from work, you have to prove the 3 following elements:

- there was a sudden occurrence
- you suffered an injury
- the accident occurred on the normal journey to or from work.

Once those 3 elements proved, it **automatically** means that:

- the sudden occurrence caused the injury.



**The insurer may however try to prove that the sudden occurrence did not cause the injury.**

### 2.2.5. How to provide evidence?

(see 2.1.3)

## Chapter 3 What to do when I have an occupational accident?

### **YOUR EMPLOYER MUST INSURE HIS/HER STAFF AGAINST OCCUPATIONAL ACCIDENTS.**

**If s/he does not**, we urge him to fulfil his/her obligations immediately and we impose a fine (called “automatic affiliation contribution”) on him/her. It is calculated according to the period s/he has not been insured and the number of staff members concerned.

**If you have an occupational accident during a period of non-insurance, we compensate for it as an insurer would do.**

We then take action against your employer to recover all the sums paid. Furthermore, we fine him/her for non-insurance. Your employer can also be prosecuted.

### **3.1. Your employer has to report the accident**

You report your accident to your employer (*it is in your best interest to do this as soon as possible*). S/he **has to report** it to his/her insurer, either directly or through the social security portal. If possible, a medical certificate has to be sent with the accident report.

The employer has to report it within 8 days starting from the day following that of the accident.

Otherwise you can report the accident **yourself**.

In that case the 8 days do not apply, but it is in your best interest to report it as soon as possible. You can report the accident within **3 years** maximum. This is called the limitation period. After 3 years, you cannot claim any compensation for your accident anymore.

You can find a standard form with instructions to fill it in correctly on the website [www.faofat.fgov.be](http://www.faofat.fgov.be) under “Reporting an accident”.

- **If you strongly doubt that your employer is insured against occupational accidents**
  - or
  - **if your employer refuses to report your accident,**
- please notify us immediately so that we can inquire into the matter.**

## **3.2. DECISION OF THE INSURER**

When the insurer receives your accident report, he can react in 3 possible ways:

### **3.2.1. The insurer accepts**

He considers it indeed is an occupational accident. He informs you that he accepts it and compensates you for it.

### **3.2.2. The insurer doubts**

Before taking a definitive decision, s/he inquires into the matter and can let you undergo a medical examination.

S/he has to inform your health insurance and us within 30 days after receiving the accident report.

If necessary your health insurance will compensate you for your temporary incapacity.

Should the insurer decide to bear the expenses of the accident afterwards, s/he will refund the health insurance and pay you the difference between the occupational accidents and health insurance indemnities.

### **3.2.3. The insurer refuses**

He refuses to recognize the facts as an occupational accident. As it is the case when s/he doubts, s/he has to inform your health insurance and us within 30 days.

We can start inquiring into the causes and circumstances of the accident. We then forward a copy of the inquiry report to you, the insurer and your health insurance.

*(In practice we only carry out this kind of inquiry in exceptional circumstances).*

If you do not agree with the insurer, you can go to the **labour court** of your domicile.



If you decide to go to the labour court, you can:

1. contact the insurer who agrees to appear with you before the labour court (voluntary appearance);
2. apply to a bailiff to oblige the insurer to appear before the labour court (summons to appear).

The costs of proceedings (bailiff, registry, expert's appraisal, etc.) are at the expense of the insurer<sup>1</sup>.

You have to pay the fees of your advisors (lawyer, physician, etc.).



If you are a union member, you should contact your union to get assistance in the steps to be taken.

### 3.3. The insurer accepts the accident and compensates you

#### 3.3.1. Temporary incapacity for work

The insurer compensates you during your **temporary incapacity** (see 4.2).

#### 3.3.2. Consolidation

When **your injuries no longer evolve** (consolidation), the insurer checks whether you have totally or partially lost your ability to gain revenue through work (**permanent incapacity**, also called **socio-economic incapacity**).

#### 3.3.3. No permanent incapacity for work

If the insurer considers that there are no sequelae which can be compensated, s/he states that you **recovered without any permanent incapacity**.

- If you were temporarily unable to work less than 7 days, you are not informed by a letter.
- If you were temporarily unable to work more than 7 days, you are informed by a letter.

<sup>1</sup> apart from exceptional cases where the action of the victim is deemed to be "frivolous and vexatious" (feint, attempted fraud, when the expert appointed on request of the victim does not receive any answer to his/her official notice,...).

- If you were temporarily unable to work during more than 30 days, the recovery has to be confirmed by means of a medical certificate for which the use of a template is compulsory.

### 3.3.4. Settlement proposal in case of permanent incapacity for work

If the insurer considers that you keep a **permanent incapacity** from your accident, s/he will propose to you an accident **settlement**.

The settlement proposal contains:

- **a description of your injuries;**
- **your degree of permanent incapacity** (percentage of incapacity for work);
- **the consolidation date** (the date from which your injuries no longer evolve);
- **your basic salary** (the salary you earned during the year before the accident – see 4.1.).

### 3.3.5. Ratification

If you and the physician of your choice, e.g. your referring physician, **accept** the proposal of the insurer, the latter transfers the file to us. We then check if the law on occupation accidents has been respected. This is called the **ratification procedure**.

We **ratify** the agreement within 3 months and provide you and the insurer with a copy of our decision.



We can **suspend** the procedure for at most 2 months when some elements of the agreement are missing or have to be changed.

We can **refuse** the ratification if we find out that you do not agree with the insurer anymore or if we consider that the law was not respected (miscalculation of basic salary, too low incapacity degree, etc.). In that case, we inform you and the insurer about our position.

### 3.3.6. Labour court

If we **refuse to ratify the settlement agreement** or if **you do not agree** with the insurer's proposal, you have to go to the labour court. The insurer can as well.

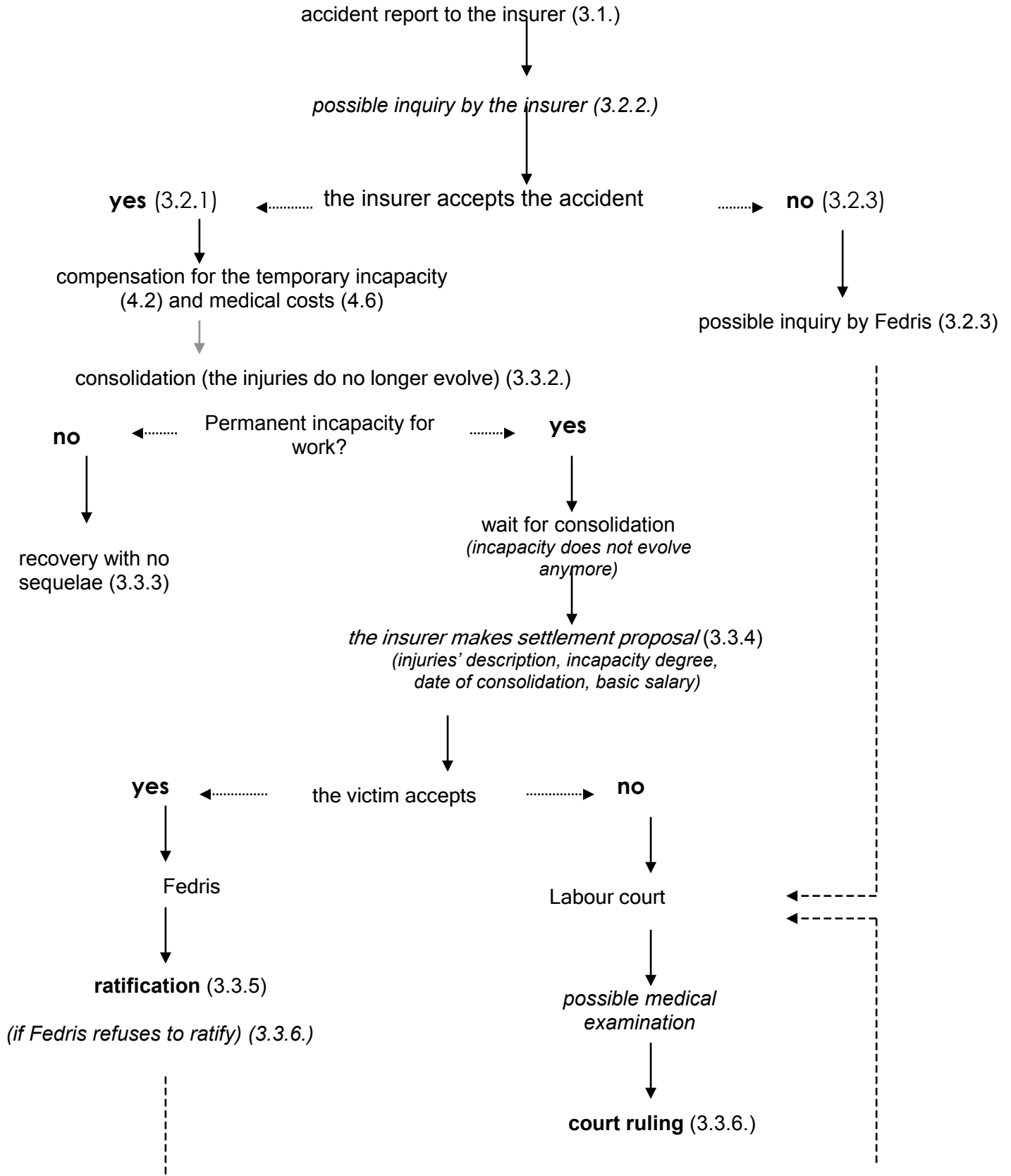
After a possible medical examination, the court will **settle** your occupational accident by a **court ruling** (see 3.4).



The **revision period** starts with the ratification or with the final court ruling (see 4.3.9).



### 3.4. SETTLEMENT OF AN OCCUPATIONAL ACCIDENT



## Chapter 4 What can I claim if I have an occupational accident?

When you have an occupational accident, you are entitled to compensation for:

- **total or partial temporary incapacity for work**

(you receive **daily indemnities**) ;

- **permanent incapacity for work**

(you receive an **allowance** during the **revision period** and an **annuity** after this period) (see 4.3.3 to 4.3.13).

**Indemnities, allowances and annuities** are calculated from the **basic salary**.

### 4.1. BASIC SALARY

This is the salary you earned **in the year preceding your accident** (reference period) for the **job you were carrying out at the time of the accident**.

Example: if you had an accident on 15.06.2012, the reference period goes from 15.06.2011 to 14.06.2012.

**If you did not work for a whole year, the days and hours missing are added.**

**If you changed employer or job during that year, your basic salary is supplemented with the salary of workers with the same qualifications as yours at the time of the accident.**

- Are **included** in the basic salary:
  - \* the salary itself (at least the one defined in the collective labour agreements); it includes the holiday pay. The holiday pay is not taken into account to calculate the salary used to compensate for the temporary incapacity for work;

- \* overtime and public holidays;
  - \* the end-of-year bonus, the production bonuses, benefits in kind, tips, etc.
- Are **not included** in the basic salary:
    - \* the compensation for professional expenses (transport, meals, etc.);
    - \* the working tools and clothes;
    - \* the mobility allowance in the building industry,...

## Special cases

### a. Retired workers

The basic salary is calculated from the real earnings, but limited to the legally allowed salary.

### b. Part-time workers

- In case of **temporary incapacity**, the indemnities are calculated from the part-time earnings.
- In case of work for several employers, the basic salary is the sum of the salaries earned with each of them.
- In case of **permanent incapacity or death** the allowances or annuities are calculated from a **fulltime** basis.

### c. Minors or apprenticeship trainees

- In case of **temporary incapacity** the basic salary is calculated from the actual earnings, but shall be equal to at least the minimum salary (see next paragraph).
- In case of **permanent incapacity or death**, the occupational category the victim would have belonged to when s/he became of age or at the end of his/her apprenticeship is taken into account for the calculation of the basic salary.  
The basic salary shall be equal to at least the average salary of full age workers belonging to this category.

#### d. **Maximum and minimum basic salaries**

The law provides for a **maximum** basic salary (ceiling of 44.817,89 € from 01.01.2020).

If your basic salary is higher, only this maximum amount is used to calculate your indemnities.

The basic salary is limited to the maximum amount of the **year of the accident**.

A **minimum** salary is defined **for minors and apprenticeship trainees who suffer temporary incapacity** (6.833,84 € since 01.01.2020).

The maximum and minimum amounts are index-linked.

## 4.2. TEMPORARY INCAPACITY FOR WORK

### 4.2.1. Total temporary incapacity for work

If you are not able to resume work, you are in **total temporary incapacity for work**.

- For the day of the accident you are entitled to compensation for **loss of salary** (salary for the hours lost due to the accident).
- From the day after the accident on, you are entitled to a **daily indemnity** calculated as follows:  $\frac{\text{basic salary} \times 90\%}{365}$

Example:    basic salary =        22 310,42 €  
                   daily indemnity =     $\frac{22\,310,42\ \text{€} \times 90\%}{365} = 55,01\ \text{€}$

You receive an indemnity **for each day of incapacity**, including weekends.

In practice, your employer pays your salary during the first 30 days (**guaranteed salary**). S/he receives the indemnities you are entitled to for that period from the insurer.

#### 4.2.2. Partial temporary incapacity for work

You are in **partial incapacity for work** when the physician considers you are able to:

- resume the work you had at the time of the accident **on a part-time basis**
  - or
  - resume work, but in a **temporary job** that suits you.
- If you accept resuming work, your indemnity shall be equal to the **difference** between your salary **before the accident** and the one earned after **resuming work**.
  - If you refuse or stop resuming work **for good reason** (illness, unemployment, etc.)<sup>2</sup>, you are entitled to indemnities for **total temporary incapacity**.
  - If you refuse or stop resuming work **without any good reason**, you are entitled to indemnities calculated from **your degree of incapacity for work**.

Example: If your incapacity for work amounts to 40%, your daily indemnity will be calculated as follows:

$$\frac{\text{basic salary} \times 40\%}{365}$$

The following rules apply to the indemnities for total and partial temporary incapacity:

- They are paid **at the same time as the salary**.
- **“NSSO (National Social Security Office) contributions”** and **“advance tax payments”** are deducted from the indemnities.
- The indemnities are **indexed** after 3 months from the day of the accident.

<sup>2</sup> If you disagree with the insurer, the labour court will decide whether the reasons you put forward are valid.

## 4.3. PERMANENT INCAPACITY FOR WORK

### 4.3.1. Consolidation

Once your injuries no longer evolve, the medical examiner of the insurer ascertains the **consolidation**.

### 4.3.2. Permanent incapacity for work

If you did not regain your work capacity from before the accident, you keep a **permanent incapacity for work** from the accident.

It is **total** when you have lost all chances to earn regular income through your work.

It is **partial** when you still have some competitiveness on the labour market despite your injuries.

The medical examiner of the insurer determines your degree of permanent incapacity. S/he does not only take into account your **injuries**, but also your **age**, your **occupational qualification**, your **possibilities regarding occupational adaptation and retraining**,....

In other words, s/he estimates your **loss of competitiveness on the labour market in general**.

### 4.3.3. Annual allowance

From the consolidation date, you are entitled to an **annual allowance** calculated from your basic salary and degree of permanent incapacity for work.

Example:	basic salary:	22 310,42 €
	permanent incapacity:	50 %
	annual allowance:	22 310,42 € x 50% = 11 155,21 €

**“NSSO” contributions and, in some cases, “advance tax payments” are deducted from the annual allowances (see 4.4.5).**

### 4.3.4. Payment of the annual allowance

For the **payment** of the annual allowance, a difference must be made between the following categories of permanent incapacity:

- **less than 10%**
- **from 10 to less than 16%**
- **from 16 up to 19% inclusive**
- **more than 19%**

For more details about each incapacity category, see 4.4.1 to 4.4.4.

#### 4.3.5. Allowance for help of a third party

If your condition requires a **third party** to carry out **normal actions in your everyday life** (personal hygiene, eating, transportation, etc.), you receive an additional allowance, the so-called **allowance for help of a third party**.

The annual **maximum** allowance shall be equal to 12 times the guaranteed average monthly minimum salary. It is determined by the National Labour Council (through collective labour agreement).

(On 01.01.2012, the guaranteed average monthly minimum salary was 1.541,67 €. The indemnity follows the evolution of this guaranteed salary).

This indemnity, which is granted at the settlement of the accident, can be revised if a prosthesis newly granted reduces the need for help of a third party.

**This allowance for help of a third party is no longer paid after the 91st day of continuous hospitalization.**

**Neither “NSSO” contributions nor “advance tax payments” are deducted.**

#### 4.3.6. Accumulation with pension benefits

The compensation for an **occupational accident** may no longer be completely accumulated with **retirement or survivors pension benefits**.

Therefore, you receive a **guaranteed minimum** from the moment you are entitled to pension benefits. If you received a third of the annuity as capital, the guaranteed minimum is reduced accordingly.

Example:

permanent incapacity:	50 %
basic salary:	22 310,42 €
annual allowance:	$22\,310,42\text{ €} \times 50\% = 11\,155,21\text{ €}$

At your retirement, your allowance is limited to the guaranteed minimum, i.e. 7.404,13 € on 01.04.2012.

#### 4.3.7. Ratification

If your physician and you accept the proposal of the insurer (injuries description, degree of permanent incapacity, consolidation date and basic salary), your file is transferred to us for **ratification** (see 3.3.5).

#### 4.3.8. Court ruling

If you disagree, the file is submitted to the labour court that will settle it by **court ruling**.

This court ruling is final as soon as it is no longer subject to opposition or appeal<sup>3</sup>, i.e. one month after service<sup>4</sup>.

If you or the insurer decide(s) to make an appeal, the **labour court of appeal** delivers a **ruling** that either confirms or modifies the ruling of the labour court. This ruling **becomes final** on the date of delivery hereof.

#### 4.3.9. Revision period

- The **date of ratification**,
- the **date on which the ruling became final**, i.e. the expiry date of the period to make an opposition or appeal,
- the **date of the ruling**

are **the starting point of the revision period** during which your incapacity degree can be increased or decreased.

The revision period is of **3 years**.

👉 The revision period can **by no means** be extended.

#### 4.3.10. Life annuity

After the revision period, your incapacity degree becomes **definitive** and your **annual allowance** is replaced by an **annuity**. **It is lifelong**, i.e. paid for life.

The annuity is calculated, just like the allowance, from the basic salary and the degree of permanent incapacity for work.

**An “NSSO” contribution and, in some cases, “advance tax payments” are deducted from the annuities (see 4.4.5).**

<sup>3</sup> “Opposition” means that one of the parties disputes a ruling by default.

<sup>4</sup> Service is made by a bailiff who informs you or the insurer about the labour court ruling.



#### 4.3.11. Payment of the annuities

For the **payment** of the annuities, a difference is made between the following categories of permanent incapacity:

- **less than 10%**
- **from 10 to less than 16%**
- **from 16 up to 19% inclusive**
- **more than 19%**

For more details about each incapacity category, see 4.4.1 to 4.4.4.

#### 4.3.12. Accumulation with retirement or survivors pension benefits

In case of accumulation with a retirement or survivors **pension benefits**, the annuity is limited to a **guaranteed minimum** just as the allowance is (see 4.3.6.).

#### 4.3.13. Third in capital

If your permanent incapacity for work amounts to more than 19% after the revision period has expired, you can ask for **one third maximum of the value of your annuity** to be paid **as capital**. If your incapacity amounts to 19% or less, see pages 24 to 30.

You can ask for it any time after the revision.

You have to justify your request (money for buying a business, to adapt your house,...) and the labour court will decide in the most favourable way for you.

To calculate the third to be paid as capital according to your situation, please contact our social assistants during their special stand-bys.

You can find the list of our special stand-bys on a separate sheet at the end of this brochure.

## 4.4. PAYMENT OF ALLOWANCES AND ANNUITIES

You receive an allowance or an annuity?

This part of the brochure answers the following 5 questions:

1. *How is my allowance or annuity calculated?*
2. *Who pays me?*
3. *When will I be paid?*
4. *Will the allowance or annuity be indexed? If so, by whom?*
5. *Can I apply for a payment of my annuity as capital?*

### 4.4.1. My incapacity amounts to less than 10%

a. *The accident occurred between 01.04.1984 and 31.12.1987<sup>5</sup>*

	ALLOWANCE		ANNUITY	
<b>How is my amount calculated?</b>	Reduction of <b>50%</b> if the degree amounts to <b>less than 5%</b>	Reduction of <b>25%</b> if the degree amounts from <b>5% to less than 10%</b>	Reduction of <b>50%</b> if the degree amounts to <b>less than 5%</b>	Reduction of <b>25%</b> if the degree amounts from <b>5% to less than 10%</b>
<b>Who pays me?</b>	the insurer		Fedris	
<b>When will I be paid?</b>	quarterly		once a year (4th quarter)	
<b>Indexation? By whom?</b>	no		yes, partially Fedris	
<b>Can I apply for a third as capital?</b>			no	

<sup>5</sup> For further information on accidents that occurred before 01.01.1984, please contact us.





**b. The accident was settled from 01.01.1997 (ratification or court ruling)**

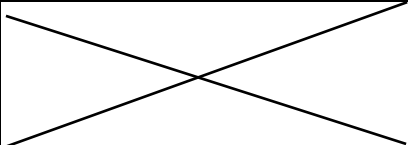
	<b>ALLOWANCE</b>	<b>ANNUITY</b>
<b>How is my amount calculated?</b>	no reduction	no reduction
<b>Who pays me?</b>	Fedris	Fedris
<b>When will I be paid?</b> * the accident occurred <b>before 01.01.1988</b> * the accident occurred <b>from 01.01.1988</b>	quarterly  monthly	quarterly  monthly
<b>Indexation?</b>	no	no
<b>Can I apply for a third as capital?</b>	<del>no</del>	no



**b. The accident was settled from 01.12.2003 (ratification or court ruling)**

	<b>ALLOWANCE</b>	<b>ANNUITY</b>
<b>How is my amount calculated?</b>	no reduction	no reduction
<b>Who pays me?</b>	Fedris	Fedris
<b>When will I be paid?</b> * the accident occurred <b>before 01.01.1988</b> * the accident occurred <b>from 01.01.1988</b>	quarterly  monthly	quarterly  monthly
<b>Indexation?</b>	yes	yes
<b>By whom?</b>	Fedris	Fedris
<b>Can I apply for a third as capital?</b>	<del></del>	no

#### 4.4.4. My incapacity amounts to more than 19%

	<b>ALLOWANCE</b>	<b>ANNUITY</b>
<b>How is my amount calculated?</b>	no reduction	no reduction
<b>Who pays me?</b>	the insurer	the insurer
<b>When will I be paid?</b> * the accident occurred <b>before 01.01.1988</b> * the accident occurred <b>from 01.01.1988</b>	quarterly  monthly	quarterly  monthly
<b>Indexation?</b>  <b>By whom?</b> * the accident occurred <b>before 01.01.1988</b> * the accident occurred <b>from 01.01.1988</b>	yes  Fedris  the insurer	yes  Fedris  the insurer
<b>Can I apply for a third as capital?</b>		yes



#### 4.4.5. Occupational accident indemnities and taxes

Your indemnities for **temporary work incapacity** are subject to income tax in their entirety.

Indemnities for **permanent work incapacity** (invalidity) are tax-exempted if:

- your degree of permanent incapacity for work is smaller than or equal to 20%;
- you receive retirement or survivors pension benefits or are at least 66 years old.

When your permanent incapacity is **higher than 20%**:

- only the amount corresponding to a percentage above 20% is subject to income tax  
 Example:            permanent incapacity = 50%  
                           calculation of the taxable amount:  
                           (gross – NSSO) X 30/50
- if you prove to the fiscal administration that your indemnities for permanent work incapacity do not compensate **any loss of income** (example: you were able to completely resume the job you had before your occupational accident), the fiscal administration transfers you a form 276 C3 for the organization that pays your indemnities (insurer, Fedris,...). The “advance tax payments” deduction stops. It means you are granted a full tax-exemption.

#### Conclusion

Indemnities for **permanent work incapacity** up to 20% are fully tax-exempted.

Indemnities above 20% are subject to income tax except if

- you can prove that you do not experience any loss of salary compared to the period before your occupational accident,
- you receive retirement or survivors pension benefits,
- you are 66 or over.

Indemnities for help of a **third party** are fully tax-exempted.

Annuities resulting from a **fatal occupational accident**:

- the percentage taken into account for annuities of **children** and **ascendants** is never higher than 20%. They are thus fully exempted;
- the fiscal administration has decided that advance tax payments no longer have to be deducted from the annuities of the **surviving spouses**. They are thus fully tax-exempted as well.

## 4.5. WHAT IF MY INCAPACITY DETERIORATES?

### 4.5.1. During the revision period

#### 4.5.1.1. *Temporary deterioration*

If you are back to incapacity during your revision period because your health deteriorated, you have to inform the insurer that settled your accident as soon as possible.

Together with your application with the insurer, you send a medical certificate proving that your occupational accident and the temporary incapacity are related.

#### 4.5.1.2. *Revision*

If there is a permanent change in your accident sequelae during the revision period, your degree of permanent incapacity for work can be revised.

You should apply for revision with the insurer who settled your occupational accident. Please send him/her a motivated medical certificate.

The procedure is the same as the one the insurer follows when forwarding you a settlement proposal (ratification or court ruling).



**The “revision” agreement has to be ratified before the revision period expires. If you do not agree with the insurer, the case should be brought before the labour court before the revision period expires.**

### 4.5.2. After the revision period

#### 4.5.2.1. *Temporary deterioration*

If you are unable to work **temporarily**, you are entitled to **indemnities for temporary work incapacity** provided your **degree of permanent incapacity** amounts to **at least 10%** (see 4.2).

- If your accident occurred **before 01.01.1988**, please contact us.

- If your accident occurred **from 01.01.1988**, please contact the insurer who settled the accident that caused your incapacity.

#### ***4.5.2.2. Permanent deterioration or death***

If your health deteriorates as a result of an occupational accident, you receive an **allowance for deterioration** if your **degree of permanent incapacity** after deterioration amounts to **at least 10%**.

If you die, the persons entitled receive a **death allowance**.

- If your accident occurred **before 01.01.1988**, please contact us.
- If your accident occurred **from 01.01.1988**, please contact the insurer who settled the accident that caused your incapacity.

## 4.6. WHICH COSTS ARE MET?

### 4.6.1. Medical, surgical, pharmaceutical and hospitalization costs

#### 4.6.1.1. Who meets the costs?


- If your accident occurred **before 01.01.1988**, the insurer meets these costs **until the end of the revision period** (see page 20). **After this period has expired**, we meet the costs.
- If your accident occurred **from 01.01.1988**, the insurer has to meet these costs **permanently**.

#### 4.6.1.2. Free choice

If you **are free to choose** the physician, pharmacist, physiotherapist, the hospital, etc., the costs are met **on the basis of the health insurance price list** (barème INAMI).


Are concerned:

- the medical care (visits at home and consultations of physicians, nursing, physiotherapy, etc.);

 Sometimes fees are **higher** than the health insurance prices. In that case, **you have to pay the difference**.

*Example: consultation of a general physician = 24,15 € according to the health insurance price list  
If the general physician charges you 24,15 €, you will be reimbursed in full.  
If s/he charges you 30 €, you will receive 24,15 € and you will have to pay 5,85 €.*

- the hospitalisation costs;

 You have to pay the extra costs the hospital charges for a **single room** or for a **room with two beds**.

You also pay for the **personal expenses**, such as the rent of a television set, telephone, beverages, etc.

- the pharmaceutical products (reimbursed in full).

#### 4.6.1.3. Organised medical service

If your employer or his/her insurer has set up an **organised medical service**, you are no longer free to choose and you have to use this service.

The medical costs are then paid by the insurer **in full**.

#### 4.6.2. Prostheses costs

You are entitled to:

- the **supply**, by the insurer, of the **prostheses and orthopaedic devices** necessary due to the accident;

*(Prostheses and orthopaedic devices are aids that replace, at least partly, an organ or a body part or that support its functioning: artificial leg, false teeth, glasses, etc.);*

- the reimbursement in full of the costs by the insurer if the **devices were damaged** during the accident (e.g. broken glasses);
- the reimbursement of the costs for **maintenance** and **renewal** of the devices necessary due to the accident:

- \* if your accident occurred **before 01.01.1988**, the insurer meets the costs for maintenance and renewal **until the ratification or the court ruling** (see 3.4).

During the following month, the insurer pays to **us** the capital that has to cover the prostheses costs for the rest of your life.

We meet the costs **from the ratification or the court ruling** on.

- \* if your accident occurred **from 01.01.1988**, the insurer meets these costs **permanently**.

#### 4.6.3. Transportation and visiting costs – Loss of salary

- You are entitled to reimbursement of your **transportation costs** and **loss of salary** if you have to go somewhere upon request of the insurer, the labour court or Fedris.  
You are also entitled to the refunding of transportation costs when you have to go somewhere for medical reasons (e.g. medical care in hospital).

Journeys **with public transport** are refunded **in full**.

Journeys **by car** are reimbursed at **0,2479 €/km** for distances of at least 5 km (outward-and-return journey).

Journeys **per ambulance** or **per taxi** are refunded **in full if made for good reasons**.

You only have to report your journey and send the possible vouchers (tickets, receipts, invoices, etc.) to the refunding institution (the insurer or Fedris).



For special journeys (e.g. trips abroad, airplane flights, repeated use of an ambulance or a taxi) it is advisory to notify the paying institution **beforehand** and to ask for its permission.

- If you remain in hospital **at least 2 days**, your spouse, children or parents can get their **visiting costs** reimbursed as follows:
  - \* stay of 2 to 7 days: 1 journey for 1 person;
  - \* per additional period of 3 days: 1 journey for 1 person;
  - \* if you are about to die: 1 journey per day for the spouse and for 1 child.

The visiting costs are refunded in the same way as the transportation costs.

#### 4.6.4. Moral, material and other damages

In some cases you can take legal action against the person **liable**<sup>6</sup> for your accident in order to claim for an allowance for damages not reimbursed by the insurer (moral damage, esthetical damage without influence on the permanent incapacity, property damage, etc.).

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<sup>6</sup> against

- the employer if the accident damaged your property;
- the employer who deliberately caused the occupational accident or an accident that resulted in the occupational accident;
- the representative or agent of the employer who deliberately caused the occupational accident;
- third persons liable for the accident;
- the employer, his/her representatives or agents if the accident occurs on the way to and from work;
- the employer, his/her representatives or agents if the accident is a traffic accident;
- the employer who fails to meet his/her obligations although they were communicated to him/her in writing by the labour inspectors.

## Chapter 5 What is the compensation for a fatal occupational accident?

An occupational accident is deemed to be **fatal** when the worker dies **immediately** after the accident. It is also fatal when s/he dies **later on** as a result of the accident or when the injuries **sped up** his/her death.

### 5.1. Expenses for transportation of the deceased and funeral

The insurer meets all the **expenses related to the transportation** of the deceased victim to the place where his/her family wishes to bury him/her, even abroad. The insurer shall deal with all administrative formalities.

The insurer transfers a **funeral indemnity** to the person who met those expenses. It shall be calculated as follows:

$$\frac{\text{basic salary} \times 30}{365}$$

Example:    basic salary:            22 310,42 €.  
                  funeral indemnity:  $\frac{22\,310,42\ \text{€} \times 30}{365} = 1\,833,60\ \text{€}$

### 5.2. Who is entitled to compensation?

The law provides for 5 categories of beneficiaries (called **entitled persons**) who may receive an **annuity**:

- the surviving spouse (wife or husband) or the person with whom the victim cohabited legally ("legal cohabitant");
- the children;
- the parents;
- the grandchildren;
- the brothers and sisters.

#### 5.2.1. Annuity types

Some are **life annuities**. They are paid **throughout the beneficiary's lifetime**. Others are **temporary**. They are of **limited** duration.



### 5.2.2. The spouse or legal cohabitant

<p><b><u>Conditions for an annuity to be granted</u></b></p> <p><b>If the victim and his/her spouse:</b></p> <p><b>1. married <u>before</u> the accident</b></p> <p><b>2. married <u>after</u> the accident</b></p> <p><b>3. If the victim and the legal cohabitant:</b></p> <p><b>3.1 live together <u>before</u> the accident</b></p> <p><b>3.2 live together <u>after</u> the accident</b></p> <p><b>4. divorced or separated from bed and board</b></p>	<p>They cannot be separated nor divorced <b>at the moment the accident occurred</b><sup>7</sup>.</p> <p>They cannot be separated nor divorced <b>at the time of death</b> and</p> <ul style="list-style-type: none"> <li>• the marriage must have taken place <b>at least 1 year before the death</b></li> <li>or</li> <li>• the marriage must have produced <b>a child</b></li> <li>or</li> <li>• one of the spouses must receive <b>family allowances</b> for a <b>dependent child</b>.</li> </ul> <p>They must cohabit <b>at the moment the accident occurs</b></p> <p>They must still cohabit <b>at the time of death</b> and</p> <ul style="list-style-type: none"> <li>• they must have been cohabiting for <b>at least 1 year before the death</b></li> <li>or</li> <li>• the legal cohabitation must have produced <b>a child</b></li> <li>or</li> <li>• one of the cohabitants must receive <b>family allowances</b> for a <b>dependent child</b>.</li> </ul> <p>The surviving ex-spouse receives <b>maintenance benefits</b>.</p>
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<sup>7</sup> Divorce or separation from bed and board take effect upon the recording of the court ruling in the register of births, deaths and marriages.

<p><b>Calculation method for the annuity</b></p>	<ul style="list-style-type: none"> <li>The annuity is equal to <b>30% of the basic salary</b>.  Example: basic salary: 22 310,42 €  annuity:  22 310,42 € x 30 % = 6 693,13 €</li> <li>If the spouse receives <b>maintenance benefits</b>, the annuity cannot exceed their amount.</li> </ul>
<p><b>Accumulation with pension benefits</b></p>	<p><b>Accumulation</b> with retirement or survivors pension benefits is restricted (see page 19).  Example: normal annuity:  22 310,42 € x 30% = 6 693,13 €  annuity after retirement:  4.140,61 € on 01.04.2012.</p>
<p><b>Duration of the annuity</b></p>	<p><b>This is a life annuity.</b> Remarriage of the surviving spouse does not suspend the annuity payment.</p>
<p><b>Third as capital</b></p>	<p>The spouse may at any time ask for a <b>third of the annuity</b> to be paid as capital (see 4.3.13).</p>

## 5.2.3. Children

<p><b>Conditions for an annuity to be granted</b></p>	<p><b>The children of the victim:</b></p> <ul style="list-style-type: none"> <li>• must have lost their father or mother. A child whose affiliation has only been established with one of the parents is deemed to be an orphan;</li> <li>• must receive family allowances. The annuity shall in any case be payable up to the age of 18.</li> </ul> <p>The same conditions shall apply to the children of the victim's spouse provided they were born or conceived before the victim's death.</p> <p><b>Adopted children enjoy the same rights as other children.</b></p> <p><b>For children other than those of the victim or his/er spouse, see grandchildren treated in the same way (see 5.2.5.).</b></p>
<p><b>Calculation method for the annuity</b></p>	<ul style="list-style-type: none"> <li>• Orphans of the father <b>or</b> of the mother: <b>15% of the basic salary</b> per child (<b>45%</b> maximum for all the children together)</li> <li>• Orphans of both mother <b>and</b> father: <b>20% of the basic salary</b> per child (<b>60%</b> maximum for all the children together)</li> </ul>
<p><b>Duration of the annuity</b></p>	<p><b>The annuity is temporary:</b> it is granted as long as the children enjoy <b>family allowances</b>. The annuity shall <u>in any case</u> be payable <b>up to the age of 18</b>. Special rules apply to <b>handicapped</b> children.</p>
<p><b>Third as capital</b></p>	<p>no</p>

Example: basic salary: 22 310,42 €

- Half-orphans: each child is entitled to an annuity at the rate of **15% of the basic salary**.  
The total annuity for the children is limited to **45%** of the basic salary.
- 2 children: each child receives an annuity of  $22\,310,42\text{ €} \times 15\% = 3\,346,56\text{ €}$
- 4 children: each child receives an annuity of  $22\,310,42\text{ €} \times 45\% = 2\,509,92\text{ €}$

4

(application of the **45%** maximum which is distributed among all beneficiaries).

As soon as the annuity of one of the 4 children expires, the 3 others are entitled to a full annuity of 3 346,56 €.

## 5.2.4. Parents

<p><b>Conditions for an annuity to be granted</b></p>	<ul style="list-style-type: none"> <li>• The victim does not leave behind any child benefiting from an annuity;</li> <li>• The parents directly benefited from the victim's salary (or lived in the same household).</li> </ul> <p><b>The adopting parents have the same rights as the parents.</b></p>
<p><b>Calculation method for the annuity</b></p>	<ul style="list-style-type: none"> <li>• The victim does not leave behind <b>any spouse nor children receiving benefits: 20% of the basic salary</b> for each of the parents.</li> <li>• The victim leaves behind <b>a spouse but no child: 15% of the basic salary</b> for each of the parents.</li> </ul>
<p><b>Accumulation with pension benefits</b></p>	<p><b>Accumulation</b> with retirement or survivors pension benefits is restricted (see page 4.3.6).</p> <p>Example:  normal annuity (neither spouse nor child receiving benefits):  22 310,42 € x 20% = 4 462,08 €  annuity after retirement:  2.760,40 € on 01.04.2012.</p>
<p><b>Duration of the annuity</b></p>	<p><b>The annuity is paid for life</b> if the parents <u>demonstrate</u> that the victim was <b>their main source of income</b>.</p> <p>Otherwise, <b>the annuity is paid until the moment the victim would have reached the age of <u>25 years</u></b>.</p>
<p><b>Third as capital</b></p>	<p>no</p>

### 5.2.5. Grandchildren

<b>Conditions for an annuity to be granted</b>	<ul style="list-style-type: none"> <li>• to be orphan of the father or of the mother;</li> <li>• to receive family allowances; the annuity shall in any case be payable up to the age of 18;</li> <li>• to benefit directly from the victim's salary (or to live in the same household).</li> </ul>
<b>Calculation method for the annuity</b>	<ul style="list-style-type: none"> <li>• Orphans of the father <b>or</b> of the mother: <b>15% of the basic salary</b> per child (<b>45% maximum</b>)</li> <li>• Orphans of both father <b>and</b> mother: <b>20% of the basic salary</b> per child (<b>60% maximum</b>)</li> <li>• If the children are entitled persons, the annuity is limited because they build up a "<b>branch</b>".</li> </ul>
<b>Third as capital</b>	<p style="text-align: center;">no</p>

Are **placed on the same footing** as grandchildren the **children** in respect of whom family allowances are granted as a result of the employment of the victim or his/er spouse. However, they **cannot yet be entitled** to an annuity because of the occupational accident.  
Their father and mother can still be alive.

If the victim does **not** leave behind **any child receiving benefits**, the annuity is of **15% of the basic salary (45% maximum)** for each of the grandchildren.

If the victim leaves behind **benefiting children or grandchildren**, the children are deemed to be grandchildren and build up a "branch".  
The "branch" receives an annuity of **15%** to be shared between all its members.

### 5.2.6. Brothers and sisters

<p><b>Conditions for an annuity to be granted</b></p>	<ul style="list-style-type: none"> <li>• The victim does not leave behind any other person benefiting from an annuity;</li> <li>• They must receive family allowances. The annuity shall in any case be payable up to the age of 18;</li> <li>• They must benefit directly from the victim's salary (or live in the same household).</li> </ul>
<p><b>Calculation method for the annuity</b></p>	<p><b>15% of the basic salary</b> for each of them (<b>45%</b> maximum for all brothers and sisters together).</p>
<p><b>Third as capital</b></p>	<p>no</p>