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SEAMAN'S INFORMATION REGARDING MARITIME INJURY

DEFENSE BASE ACT

THE FREQUENTLY ASKED QUESTIONS

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DEFENSE BASE ACT FREQUENTLY ASKED QUESTIONS

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1. What is the Defense Base Act (DBA)?

The DBA is attached to the LHWCA and provides compensation for disabilities and medical benefits to employees who suffer injuries while working for employers who are contracted through the US government to perform work overseas. The DBA also provides death benefits in the unfortunate situation in which such an employee is killed.

2. Who is covered under the DBA?

- The DBA covers employees who are employed for private employers who work on US military bases or any land used by the US for military purposes outside of the US. US territories and possessions are also included in the covered areas of the DBA.
- Employees who are working on construction and service contracts with the US government in connection with national defense or war activities outside of the US.
- Employees who are working on a contract that is funded and approved by the US government under the Foreign Assistance Act outside of the US.
- Employees who work for American employers who provide welfare or other morale services outside of the US for the benefit and wellbeing of members of the Armed Services, such as the United Service Organization (USO).
- Third country nationals working for such contracted employees, regardless of nationality or origin, are also covered under the DBA.



3. What does “public work” mean?

Public work means, “Any fixed improvement or any project, whether or not fixed, involving construction, alteration, removal or repair for the public use of the US or its allies.” Public works is inclusive of any project or operation under contract in connection with the national defense or other war activities.

4. Is work performed pursuant to a grant covered under the DBA?

The issue of grant work has only been brought to the attention of a court one time, it was deemed that any work pursuant to a grant is not covered under the DBA.

5. Who administers the DBA?

The DBA is governed by the US Department of Labor, Office of Workers Compensation Programs, Division of Longshore and Harbor Workers' Compensation, through eleven district offices strategically placed through the US.

6. I need to file a new DBA claim, where should I start?

Any DBA claims should be filed through the Longshore District Office that handles the geographic territory in which the injury or death occurred.



7. What benefits does the DBA offer?

The DBA offers disability and medical benefits for employees who are either injured or killed during their time of employment while working for an employer contracted by the US government. These benefits are also offered if the injury or death occurs while off of the work site, as long as it occurs while the employee is stationed overseas for employment. The compensation for total disability is two thirds of the employee's average weekly earnings; there is a maximum weekly rate that is determined every October for the following year. Partial disability is also covered by the DBA. The death benefits are paid to eligible dependants in the amount of one half of the employees average weekly earning; if there is more than one dependant the benefit will be paid equaling two thirds of the average weekly earnings and should be split among the dependants. The death benefit also has a maximum weekly rate that is determined in October of the previous year. An injured employee is entitled to seek medical treatment by a medical professional of his/her choice.

8. What, if any, payment provisions are specific to aliens or non US residents?

Claims involving permanent disability can be paid in a lump sum payment equally half of the present value of any future compensation, which will be determined by the OWCP district director. Medical benefits cannot be commuted. Death benefits will only be paid to the widow and/or surviving children. If there is no widow or children then the benefits may be paid to dependant parents.

9. I was injured at work, how should I proceed?

First, tell your employer immediately about the injury. If medical treatment is needed, your employer should authorize a doctor of your choice to treat your injuries.

10. My injuries require medical treatment, how should I proceed?

After your employer authorizes a doctor of your choice to treat you, you should seek their professional advice and treatment. If your injury requires emergency treatment tell your employer if possible and then you should go directly to the nearest hospital or medical professional.

11. How do I receive compensation for my disability?

Once you have disabled for 3 days you should contact your employer or insurance agent for compensation. Compensation is due to be paid 14 days after your employer has been notified of the injury you suffered.



12. How do I properly tell my employer of my injury according to DBA regulations?

You should give your employer written notice using Form LS-201, Notice of Employee's Injury or Death. You should give them this form within 30 days of the injury. Certain occupational disease claims allow additional time, however it is best to adhere to the 30 day policy if possible.

13. I need to file a compensation claim, how should I proceed?

Within one year of your injury or last date of compensation you should file Form LS-203 with the OWCP district office that has jurisdiction over your area. Certain occupational disease claims have been allowed up to two years to file this form, however it is best to adhere to the one year policy if possible.

14. How do I obtain death benefits?

You should first complete Form LS-201, Notice of Employee's Injury or Death, and submit it to the deceased employee's employer within 30 days of the death. To file for compensation, complete Form LS-262, Claim for Death Benefits. Submit this form to the OWCP district office with jurisdiction over that area within one year of the death.





15. As an employer, what should I do once an employee submits a notice of injury to me?

Employers should either notify their insurance agent or claims administrator if self insured as soon as a notice of injury has been filed. If medical treatment is necessary, you should authorize it immediately. The next step is to complete Form LS-202, Employer's First Report of Injury, and submit it to the OWCP district office with jurisdiction within 10 days of the injury if the employee has to miss one or more work shifts. If any further forms or information is needed the OWCP office will direct you as needed.

16. What services do the OWCP district offices provide?

The OWCP district office ensures compliance with the Acts provisions through monitoring compensation payments and medical care. The office staff also provides technical help to all parties involved for prompt delivery of benefits. The office examiners also act as informal mediators when a claim is disputed by any party involved. The district director also has final authority to either approve or deny benefits in any undisputed claims.

17. What if the claim is unable to be resolved informally?

If an informal mediator is unable to assist all parties in resolving the claim, then any party may request that the Office of Administrative Law Judges hear the claim formally. If any party is unsatisfied with the ruling from the OALJ, they can then appeal to the Benefits Review Board. From the BRB, if any party is still unsatisfied, the claim can be heard by the US District Court of the US Court of Appeals.

18. How do I contact the OWCP district office?

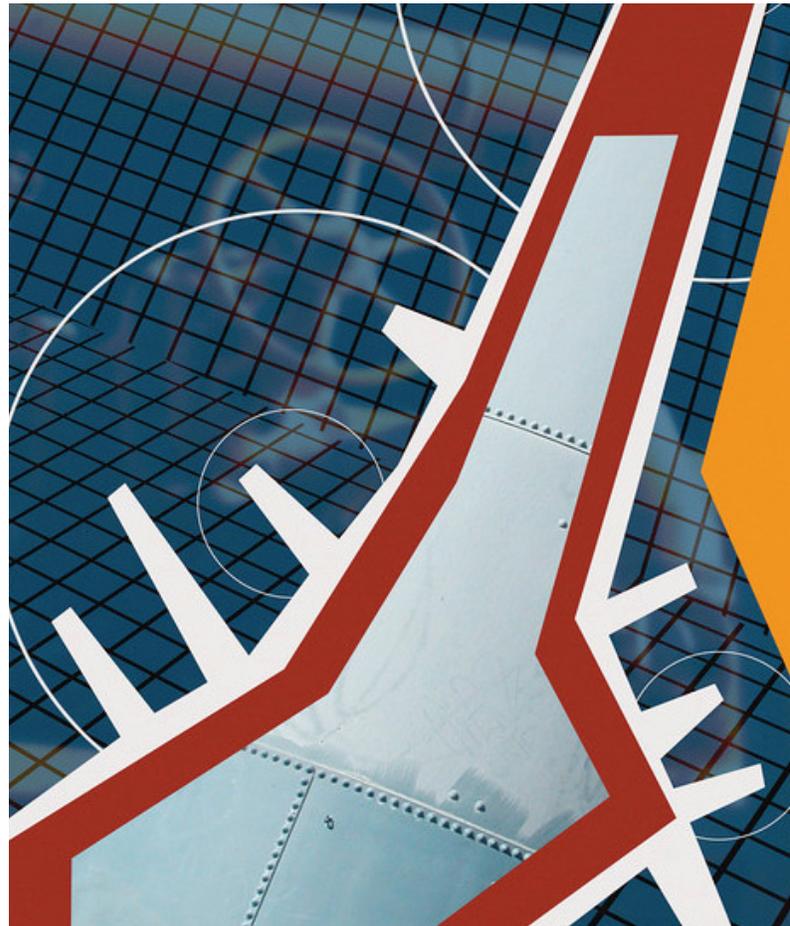
The DBA jurisdictional boundaries and the corresponding district office contact information can be viewed at <http://www.dol.gov/esa/owcp/dlhwc/lstdba.htm>. The contact information for other Longshore district offices can be viewed at <http://www.dol.gov/esa/owcp/dlhwc/>

19. What requirements does DBA have for insurance coverage?

The DBA requirements for insurance are the same as the LHWCA's. They both require every employer to secure either workers compensation insurance or to be self insured. This includes contractors and subcontractors. If a subcontractor fails to meet these requirements, the contractor who hires that company will be responsible to secure payment for such benefits.

20. Who is authorized to write DBA coverage?

Insurance carriers and self insured employers have to be approved by the OWCP. There are currently over 100 insurance carriers have been authorized to write DBA coverage. You can review the list of approved carriers at <http://www.dol.gov/esa/owcp/dlhwc/lscarrier.htm>. At this time there are only three major insurance companies who are authorized to write DBA coverage; they are ACE USA, American International Group and CAN.



21. Do employers have to provide DBA coverage for foreign nationals?

Yes, benefits provided by the DBA cover all employees, regardless of their nationality. Employers must provide insurance coverage for any employee who is working on a contract with the US government outside of the United States.

22. What happens if an employer does not supply coverage required by the DBA?

In this case, the employee may file a suit against the employer for tort damages. The employer may not plead that the injury was caused by fault of the employee, another employee or that the employee previously assumed personal responsibility for all risks of the employment obligations. The employer will also be found guilty of a misdemeanor offense and, convicted, could be punished by a fine of up to \$10,000 or by imprisonment of no more than one year or a combination of both. In addition, if the employer is a corporation the president, secretary and treasurer will be severally held liable for the same fins and imprisonment. These officers may also be held personally liable for any compensation or benefits payable under the DBA in respect to the death or injury of the employee.

23. Does the Department of Labor regulate DBA insurance premium rates?

No, the DOL has no authority to regulate the insurance rates. Although, each authorized carrier is regulated by the states in which they do business.

24. What is a waiver?

A waiver has to be approved by the Secretary of Labor and allows an employer to not provide DBA coverage to certain employees. There does have to be alternative coverage available to any employee not covered by the DBA though. The waiver cannot apply to any employee US citizens or its legal residents or to employees hired in the US. The waiver can only be valid if an alternative workers compensation program is in place by local law. If no such laws exist, the foreign nationals will be covered under the DBA and a waiver will be not granted.

25. How would a company obtain a waiver?

You must first request a waiver in writing though Form BEC 565, Request for Waiver-Defense Base Act. This should be submitted to the Director, OWCP, US Department of Labor, ESA/OWCP, Division of Longshore and Harbor Worker's Compensation, 200 Constitution Avenue NW, Rm C-4315, Washington, DC 20210. You can receive a copy of the form by writing to the Director, Division of LHWC at the same address, by emailing DLHWC-Public@dol.gov, or by calling the Longshore National Office at 202-693-0038.



26. Can an employer voluntarily provide DBA benefits even if a waiver is in place?

Yes. There is no prohibition against providing DBA coverage for waived employees.

27. Are there any posting requirements for an employer provided by the DBA?

Every employer who has compensation secured under the DBA must post the information in a viewable location at all times, Form LS-241, Notice to Employees, should be used for this purpose. The notice should also contain the contact information of the insuring agent or claims administrator who should be contacted in the event of an injury or death and the expiration date of the policy.

28. Why is the Form LS-241 or Form LS 242 not available for download from the internet?

Both forms are only available to those employers from an insurance carrier or the OWCP upon confirmation of coverage or of self insured authorization. For any additional information you can contact the OWCP Longshore National Office at 202-693-0038 or DLHWC-Public@dol.gov.

29. Where can I obtain Longshore forms?

You can obtain any Longshore form at the district office or some of them are available online.

