

Regulations governing Additional claims relating to disability caused by employees' duties

Please see Articles 5 and 17 of the Sickness and Disability Scheme of Dutch Universities (Ziekte- en Arbeidsongeschiktheidsregeling, ZANU)

Section 1 – Incapacity caused by employees' duties

In addition to normal claims relating to sickness and disability (hereinafter referred to as 'disability'), the following additional claims shall apply if the disability was caused by the employee's responsibilities or working conditions. This may relate to an accident at work (an event that has taken place during work and in the workplace, not during the commute) as well as to disability that has arisen gradually as a result of the nature of the work or the conditions under which the work was to be carried out. The disability may then be physical and/or psychological in nature.

Section 2 – Financial claims for former or current employees

- a. Salary will not be reduced after 9 months (Article 5 of the ZANU in conjunction with Article 4 of the ZANU);
- b. Supplement to the IVA (Full Invalidity Benefit Regulation) allowance or the WGA (Return to Work (Partially Disabled) Scheme) allowance of former or current employees who have been dismissed on the basis of disability (Article 17 ZANU);
- c. Reimbursement of medical expenses (Article 17 ZANU).

Ad. a. Full salary

In the event of disability, the employee shall be entitled to payment of his or her full salary for 9 months after the disability has arisen. Under Article 5 (1) of the ZANU, the employee will continue to receive his or her full salary even after this period has lapsed, if the disability was caused to a significant extent by the nature of the assigned work or by the exceptional conditions under which it was to be carried out and not as a result of their own fault or carelessness. In the event of an accident at work, the employee shall be required to report this within a period of 7 days. If he or she has failed to report the accident without a plausible reason, payment of the employee's full salary may be refused.

The following requirements will apply:

1. The disability (which may be physical in nature or psychological, under certain circumstances) was caused to a significant extent by the nature of the assigned work or by the exceptional conditions under which it was to be carried out.
2. These responsibilities or conditions must have been aggravating in nature, meaning that they entailed an increased risk of incapacity.
3. The requirement of the exceptional conditions under which the work was to be conducted is primarily significant in relation to psychological disorders and mental illness.
4. On the basis of case law, the following shall apply cumulatively: (1) that the illness or the accident can be attributed to the work for at least 50%; (2) that another random employee would also have become disabled under those conditions (objective standard); (3) that there was no fault or attributable behaviour on the part of the employee.
5. If a case of disability is more psychological in nature, the relevant employee must conclusively

demonstrate that there were factors that were objectively abnormal or excessive in nature in relation to the work or the working conditions.

Ad b. Supplement to the IVA benefit or the WGA benefit allowance

Sub 1

Article 17 (1) of the ZANU provides that former or current employees who have been declared 80-100% permanently disabled and receive an IVA benefit and who are disabled within the meaning of these regulations shall receive a supplement on top of the IVA benefit allowance.

Sub 2

Article 17 (2) of the ZANU provides that former or current employees who receive a WGA benefit allowance and who are disabled within the meaning of these regulations shall receive a supplement on top of the WGA benefit allowance.

Sub 3

Article 17 (3) of the ZANU sets out the level of the supplement: 90% of that percentage of the salary for which the former or current employee was declared disabled. In this case, the former or current employer will supplement the sum, which consists of the former or current employee's new income, the allowance under the AAOP (ABP Disability Pension) and any benefits from additional individual disability insurance. This amount, plus the supplement will amount to up to 90% of the original salary of the former or current employee.

Ad c. Reimbursement of medical expenses by Utrecht University

Under Article 17 (4) of the ZANU, if an employee is disabled within the meaning of these regulations, the permanently required medical costs incurred by the employee shall be reimbursed by Utrecht University.

Additional provisions:

1. Reimbursement must relate to costs that are not covered by the health insurance of the employee.
2. Everyone is expected to be insured for the costs of medical treatment. The costs that are incurred by the employee, due to the fact that they fall under the mandatory excess, will be reimbursed.
3. All costs incurred by the employee if he or she has failed to purchase or take out basic insurance will not be reimbursed.

These regulations, as amended in consultation with the University Labour Representation Board on 4 December 2019, shall come into force on 31 December 2019 and will replace the previous regulations.