

Defense Base Act Insurance

Federal law requires all U.S. government contractors and subcontractors to secure Defense Base Act Insurance (DBA) for their employees working overseas.

The Defense Base Act provides disability, medical, and death benefits to covered employees injured or killed in the course of employment, whether or not the injury or death occurred during work hours.

Triggers for DBA

There are five provisions in the current version of the Defense Base Act that prompt coverage:

1. Any employee working on a military base or reservation outside the U.S.
2. Any employee engaged in U.S. government funded public works business outside the U.S.
3. Any employee engaged in public works or military contract with a foreign government which has been deemed necessary to U.S. National Security
4. Those employees that provide services funded by the U.S. government outside the realm of regular military issue or channels
5. Any employees of any sub-contractors of the prime or letting contractor involved in a contract like numbers 1 - 4 above

Coverage Issues

The courts often rely on precedent when determining liability issues. Two doctrines known as the Zone of Special Danger and Reasonable Recreation are central to finding coverage under the Act.

The **Zone of Special Danger** doctrine requires that an employee's injury or death occurs arising out of or in the course of employment. In addition, the Zone of Danger states that where there exists unique conditions or circumstances of employment which place an employee in a zone of danger, then an accident resulting in injury or death need not be strictly related to job duties.

The **Reasonable Recreation** doctrine requires that an employee's injury or death occur arising out of or in the course of the employer's furnished, funded or promoted recreational activities. Some non-sponsored activities may also be included.

Please note that these two doctrines taken together may not guarantee "24 Hour Coverage" for an employee.

Coverage Issues

Failure to obtain DBA insurance may carry stiff penalties. Government contracts generally contain a provision requiring bidding contractors to obtain necessary insurance.

Failure to do so may result in fines and possible loss of contract. Employers without DBA coverage may be subject to suits under common law wherein common law defenses are waived. In other words, the claimants or their heirs sometimes need only file suit and may not have to prove negligence. Claims may be able to be brought in Federal Court against the insured directly.

Additional Coverage

Although the Defense Base Act has a death benefit, many employers choose to supplement their coverage with an Accidental Death and Dismemberment (AD&D) plan.

There are several good reasons to consider this option.

1. Many domestic life insurance programs contain specific exclusions for war risk areas.
2. The Defense Base Act is designed to cover only employment-related injuries. There are doctrines that extend the coverage beyond the job site in certain circumstances, but it is not true 24 hour coverage (See the below information).
3. The DBA Death Benefit has no scheduled lump sum payouts at the time of death. With no other life insurance in place (group or individual), this could cause immediate estate issues and hardships on families saddled with high mortgages, loans, tuition and car payments.
4. The Defense Base Act's weekly compensation rate may not sufficient to support the families of highly compensated employees.
5. The process of claiming death benefits under the Defense Base Act can often be an arduous process. The cash from an AD&D benefit can be quite valuable during the time between death and compensation under the Defense Base Act.