

EXPLANATORY MEMORANDUM

THE SOCIAL SECURITY (INDUSTRIAL INJURIES) (PRESCRIBED DISEASES) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2012

S.R. 2012 No. 100

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 108(2) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 These Regulations amend Schedule 1 to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1986 (“the Prescribed Diseases Regulations”), in particular, they amend Prescribed Diseases A4 (task-specific focal dystonia), A14 (Osteoarthritis of the knee) and C3 (poisoning by phosphorous organic and inorganic phosphorous compounds) in the list of prescribed diseases in Part 1 of Schedule 1 to the Prescribed Diseases Regulations.
- 2.2 Regulation 1 provides for the title and commencement.
- 2.3 Regulation 2 amends Prescribed Diseases A4 (task-specific focal dystonia) by adding a reference to the hand or forearm to make it clear that no other parts of the body are covered by the prescription, A14 (Osteoarthritis of the knee) to include osteoarthritis of the knee in relation to work as a carpet fitter or as a carpet or floor layer for 20 years or more in aggregate and C3 (poisoning by phosphorous organic and inorganic phosphorous compounds) updating the current prescription to reflect the current medical/scientific opinion on the disease.

3. Background

- 3.1 Industrial Injuries Disablement Benefit is a non-contributory, non-income related benefit for people who have become disabled as a result of an accident at work or a prescribed disease which was contracted while working in employed earners employment. The rate of benefit payable depends on the level of disability. The benefit is payable even if the person continues or returns to work, but is not payable until the 91st day following the accident or the onset of the prescribed disease.

- 3.2 The Industrial Injuries Advisory Council is an independent statutory body which advises the Secretary of State for Work and Pensions and the Department for Social Development on matters relating to the Industrial Injuries scheme. In particular, having studied the scientific evidence, the Council advises which diseases should be prescribed or amended for the purpose of claims for Industrial Injuries Disablement Benefit.
- 3.3 The Industrial Injuries Advisory Council published its reports on *Conditions due to Chemical Agents* issued in February 2002 (Cm 5395) and *Osteoarthritis of the knee in carpet fitters and carpet and floor layers* issued in November 2010 (Cm 7964), recommending that the current prescription for Prescribed Disease C3 should be revised to reflect the current medical/scientific opinion on the disease and that Prescribed Disease A14 should be extended to include Osteoarthritis of the knee in carpet fitters and carpet and floor layers respectively.

In July 2006 the Industrial Injuries Advisory Council published its report on *Work-related upper limb disorders* (Cm 6868) with a recommendation to modernise terminology in the prescription for Prescribed Disease A4, the disease formerly known as ‘writer’s cramp’. However, following a decision made by a Judge of the Upper-Tier Tribunals (CI 1386 09) the Industrial Injuries Advisory Council is adding a reference to the hand or forearm along with ‘task specific focal dystonia’ to make it clear that no other parts of the body are covered by the prescription for Prescribed Disease A4.

4. Consultation

- 4.1 As the Regulations make, in relation to Northern Ireland, only provision corresponding to provision contained in Regulations made by the Secretary of State for Work and Pensions in relation to Great Britain they do not have to be submitted to the Industrial Injuries Advisory Council.

5. Equality Impact

- 5.1 The addition to Prescribed Disease A14 (osteoarthritis of the knee) relates solely to occupations involving carpet fitters and carpet and floor layers and at Paragraph 75 of their report the Industrial Injuries Advisory Council found that in the course of their review of osteoarthritis of the knee in carpet fitters and carpet and floor layers no diversity and equality issues were apparent. It is very likely that the number of claims for this disease will be very small.

The amendments to Prescribed Diseases C3 and A4 are clarifications of existing policy and are unlikely to have any material effect on the outcomes of Industrial Injuries Disablement Benefit claims.

In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative

proposals and has concluded that the proposals are positive and do not have significant implications for equality of opportunity.

6. Regulatory Impact

- 6.1 These Regulations do not require a Regulatory Impact Assessment as they do not impose a cost on business, charities or voluntary bodies.

7. Financial Implications

- 7.1 Minimal, as there is no indigenous coal mining industry in Northern Ireland.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied the Rule—
- (a) is not incompatible with any of the Convention rights,
 - (b) is not incompatible with Community law,
 - (c) does not discriminate against a person or class of person on the ground of religious belief or political opinion, and
 - (d) does not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 The corresponding Great Britain Regulations are the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2012 and come into force on 30 March 2012. Parity of timing and substance is an integral part of the maintenance of single systems of social security, pensions and child support provided for in section 87 of the Northern Ireland Act 1998.