

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (INDUSTRIAL INJURIES) (PRESCRIBED DISEASES)
AMENDMENT REGULATIONS 2018

2018 No. 769

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 These regulations amend the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985¹ (the “1985 Regulations”). The 1985 Regulations set out the requirements for entitlement to Industrial Injuries Disablement Benefit (IIDB), in respect of prescribed diseases including Latex Anaphylaxis and Nasal Carcinoma. This instrument extends the eligibility/prescription criteria for Latex Anaphylaxis and Nasal Carcinoma to ensure the 1985 Regulations continue to reflect current scientific knowledge.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The amendments to the 1985 Regulations, made by these Regulations are in response to recommendations made by the Industrial Injuries Advisory Council, to the Secretary of State, in two Command Papers² laid before Parliament during 2017 – see part 7.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.
- 5.3 The Department for Communities in Northern Ireland will be making corresponding provisions for Northern Ireland.

¹ <http://www.legislation.gov.uk/ukxi/1985/967/part/I/made>

² <https://www.gov.uk/government/collections/position-papers-industrial-injuries-advisory-council>

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The Industrial Injuries Advisory Council (“the Council”) is an independent body constituted under section 62 of the National Insurance (Industrial Injuries) Act 1965³. Its functions are set out in Part XIII of the Social Security Administration Act 1992⁴. The Council advises the Secretary of State for Work and Pensions solely on matters relating to industrial injuries benefits, including Industrial Injuries Disablement Benefit (“IIDB”). In particular, the Council advises the Secretary of State on the diseases which it recommends should be listed (or “prescribed”) within the 1985 Regulations as conditions capable of giving rise to entitlement to IIDB. The Council bases this advice on the best available scientific evidence.
- 7.2 In order for a disease to be become prescribed within the 1985 Regulations, the disease must be one that can be considered to have been caused by the nature of a person’s occupation.
- 7.3 The recommendations of the Council, implemented by this instrument are set out in the following Command Papers⁵: Cm 9498, “Extending the terms of prescription for latex anaphylaxis” and Cm 9499, “Nasal carcinoma and occupational exposure to wood dust”. The Council has recommended extensions of the prescription criteria for both diseases to include additional occupations and to achieve more consistency with other prescribed diseases of a similar kind.

Latex anaphylaxis

- 7.4 Latex Anaphylaxis is already prescribed within the scheme as Prescribed Disease B15 “anaphylaxis” (PD B15). The prescription criteria for PD B15 is currently limited to employment as a healthcare worker having contact with products made with natural rubber latex.

Many occupations outside the healthcare sector can also involve regular exposure to latex products and when the Council extended its enquiries to these groups it found a similar causal connection, with latex allergy only rarely acquired outside the workplace. The Council has therefore recommended that the prescription for this disease be expanded to include any occupation involving contact with products made with natural rubber latex. This would include police officers, vehicle mechanics, hairdressers, and workers from the food industry amongst others.

The expansion of this prescription will provide parity with other similar diseases within the scheme such as occupational asthma and rhinitis which both prescribe any occupation that involves exposure to the listed agents.

³ <http://www.legislation.gov.uk/ukpga/1965/52/enacted>

⁴ <http://www.legislation.gov.uk/ukpga/1992/5>

⁵ <https://www.gov.uk/government/collections/position-papers-industrial-injuries-advisory-council>

Nasal Carcinoma

- 7.5 Nasal carcinoma is already prescribed within the scheme as Prescribed Disease D6, “carcinoma of the nasal cavity or associated air sinuses (nasal carcinoma)” (PD D6). Among the recognised occupational causes of the disease are leather dust and wood dust.
- 7.6 In relation to wood dust, the current occupational prescription is any occupation involving “attendance for work in or about a building where wooden goods are manufactured or repaired”. However, tribunals have placed a narrow interpretation on the meaning of “building”, effectively restricting coverage to claimants working in premises which exist to manufacture or repair wooden goods, and placing outside the scope of benefit, for example, the carpenter who is exposed to wood dust during the fitting out of shops or on a construction site. Evidence also suggested a strong case for extending the prescription to include exposure to wood dust in the machine processing of wood in addition to manufacture and repair.
- 7.7 This instrument amends the prescription by replacing the words “in or about a building” with “at a workplace” and for completeness, includes with the manufacture or repair of “products made wholly or partially of wood” and also the “machine processing of wood”.

Consolidation

- 7.8 Informal consolidated text of instruments is available to the public free of charge via ‘the National Archive’ website <http://www.legislation.gov.uk/>⁶.

8. Consultation outcome

- 8.1 There is no duty to consult on these changes and a consultation has not been carried out. These changes are being made following recommendations by the Council to the Secretary of State on the basis of published scientific evidence.

9. Guidance

- 9.1 A guidance bulletin detailing these changes will be issued to the Department’s claims processors who are responsible for processing new claims for Industrial Injuries Disablement Benefit (IIDB). The list of prescribed diseases for IIDB as set out within the IIDB Technical Guidance, and published on the Gov.uk site⁷, will be updated. These measures will be undertaken in advance of this statutory instrument coming into force.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is negligible. Our analysis estimates that approximately 20 additional new claims per year will result from these changes.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

⁶ <http://www.legislation.gov.uk/>

⁷ <https://www.gov.uk/government/publications/industrial-injuries-disablement-benefits-technical-guidance>

12. Monitoring & review

- 12.1 No specific monitoring and review of the new claims process will be carried out above and beyond that which is already in place as part of the Department's routine data collection.

13. Contact

- 13.1 Susan Sedgwick at the Department for Work and Pensions (Telephone: 0113 251 9129 or email: susan.sedgwick@dwp.gsi.gov.uk) can answer any queries regarding the instrument.