

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (INDUSTRIAL INJURIES) (PRESCRIBED DISEASES)**  
**AMENDMENT REGULATIONS 2017**

**2017 No. 232**

**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.

**2. Purpose of the instrument**

- 2.1 These regulations amend the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985<sup>1</sup> (the “1985 Regulations”). The 1985 Regulations set out the requirements for entitlement to Industrial Injuries Disablement Benefit, in respect of prescribed diseases. These changes are being made 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 several Command Papers laid before Parliament during 2016 – 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 Subject to the agreement of the Northern Ireland Assembly, the Department for Communities in Northern Ireland will be making corresponding provisions for Northern Ireland.

**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.

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

## 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 1965<sup>2</sup>. Its functions are set out in Part XIII of the Social Security Administration Act 1992<sup>3</sup>. 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 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 these Regulations, are set out in the following Command Papers<sup>4</sup>: Cm 9208, “Cancers due to ionising radiation”, Cm 9247, “Extrinsic Allergic Alveolitis: isocyanates and other occupational causes”, and Cm 9246, “Diffuse pleural thickening”.

### Cancers due to ionising radiation

- 7.4 For prescribed disease PD A1, five cancers are currently prescribed for IIDB in relation to occupational exposure to ionising radiation: leukaemia, and cancers of the bone, female breast, testis and thyroid. After a review and consideration of the latest scientific evidence, the Council recommended that the terms of prescribed disease PD A1 be extended to include cancers of the colon, liver, lung, stomach, ovary and bladder. It further recommended that the existing prescription in respect of “female breast cancer” should be extended to allow claims from affected men.

### Extrinsic Allergic Alveolitis: isocyanates and other occupational causes

- 7.5 The Council reviewed current published evidence in respect of existing prescribed disease PD B6: Extrinsic Allergic Alveolitis (“EAA”). It recommended that the definition of occupational exposure should be broadened to reflect the regular emergence of new biological causes for this disease and to remove the need for frequent amendments to this prescription. The Council further concluded that high levels of exposure to chemicals called isocyanates, could cause EAA. It therefore recommended that a new prescribed disease C34 be created and added to the list of diseases. This new prescribed disease recognises the chemical causes of EEA. The biological causes of EAA are already recognised under prescribed disease PD B6.

### Diffuse pleural thickening

- 7.6 For existing prescribed disease PD D9: Unilateral or bilateral diffuse pleural thickening, the Council recommended that the prescription definition be modernised to reflect the use of computerised tomography (CT) for diagnosing this disease. The

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<sup>2</sup> <http://www.legislation.gov.uk/ukpga/1965/52/enacted>

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/1992/5>

<sup>4</sup> <https://www.gov.uk/government/collections/position-papers-industrial-injuries-advisory-council>

current prescription relies on a radiographic criterion for diagnosis, which may have been potentially restrictive to claimants.

- 7.7 These changes ensure the list of prescribed diseases stays up to date in terms of scientific knowledge. The effect on claimant numbers will be relatively small – we estimate that these changes will lead to around 10 additional new claims per year for IIDB, in the context of around 23,000 new claims annually.

### ***Consolidation***

- 7.8 Informal consolidated text of instruments is available to the public free of charge via ‘the National Archives’ website <http://www.legislation.gov.uk/><sup>5</sup>.

## **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 Industrial Injuries Advisory 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 claims processors in the Barnsley and Barrow offices of the Department for Work and Pensions with responsibility for processing new claims for IIDB. The list of prescribed diseases for IIDB as set out within the IIDB Technical Guidance, and published on the Gov.uk site<sup>6</sup>, 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 around 10 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.

## **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 Neil Walker at the Department for Work and Pensions Telephone: 0113 232 4242 or email: [neil.walker@dwp.gsi.gov.uk](mailto:neil.walker@dwp.gsi.gov.uk) can answer any queries regarding the instrument.

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<sup>5</sup> <http://www.legislation.gov.uk/>

<sup>6</sup> <https://www.gov.uk/government/publications/industrial-injuries-disablement-benefits-technical-guidance>