

2022 No. 42

SOCIAL SECURITY

**The Social Security (Industrial Injuries) (Prescribed Diseases)
Amendment (Scotland) Regulations 2022**

Made - - - - *3rd February 2022*

Laid before the Scottish Parliament *7th February 2022*

Coming into force - - *28th March 2022*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 108(1) and (2), 109(2) and (3)(a), 122 and 175(1) to (5) of the Social Security Contributions and Benefits Act 1992(a), and all other powers enabling them to do so.

The Scottish Ministers are satisfied of the matters to which section 108(2)(a) and (b)(b) of that Act refer.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment (Scotland) Regulations 2022 and come into force on 28 March 2022.

(2) These Regulations extend to Scotland only.

Amendment of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985

2.—(1) The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985(c) are amended as follows.

(a) 1992 c. 4. The function of making regulations to amend a prescribed disease, for the purpose of sections 108(1) and (2), and 109(2) and (3)(a) of the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”), and of exercising the power in section 175 of that Act, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46) as read with sections 22(2) and 32 of the Scotland Act 2016 (c. 11). Section 22(2) of that Act inserted exceptions into the social security reservation in Head F1 of Part 2 of schedule 5 of the Scotland Act 1998 relating to industrial injuries benefits. Section 22(2) was brought into force on 17 May 2017 by S.I. 2017/455, subject to transitional arrangements set out in S.I. 2017/444 which provided that pre-commencement functions would not transfer to the Scottish Ministers until the occurrence of a specified event or date. The transitional arrangements in respect of industrial injuries benefits ended on 31 March 2020 (see regulation 4 of S.I. 2017/444). Accordingly, in so far as the functions under sections 108 and 109 of the 1992 Act are exercisable within devolved competence, they are now exercisable by the Scottish Ministers instead of by the Secretary of State. Section 122 of the 1992 Act is cited for the meaning assigned to the word “prescribed”. Section 108(1) of the 1992 Act was amended by section 64(1)(c) of the Welfare Reform Act 2012 (c. 5). Section 109(2) of the 1992 Act was amended by paragraphs 65(a) – (d) of schedule 7 of the Social Security Act 1998 (c. 14). An amendment was made to section 175(1) of the 1992 Act which is not relevant to these Regulations. Section 175(4) of the 1992 Act was amended by paragraph 29(4) of schedule 3 to the Social Security Contributions (Transfer of Functions etc.) Act 1999 (c. 2). Section 175(5) of the 1992 Act was amended by paragraph 36 of schedule 1(1) to the Social Security (Incapacity for Work) Act 1994 (c. 18).

(b) 1992 c. 4. Section 108(2) of the 1992 Act is to be read in accordance with section 53 of the Scotland Act 1998.

(c) S.I. 1985/967; relevantly amended by S.I. 2019/1241.

(2) In Part 1 of schedule 1 (list of prescribed diseases and the occupations for which they are prescribed), in the column headed “prescribed disease or injury” at entry A15 (Dupuytren’s contracture of the hand resulting in fixed flexion deformity of one or more inter-phalangeal joints of one or more of the digits)—

(3) Omit “resulting in fixed flexion deformity of one or more inter-phalangeal joints of one or more of the digits”, and

(4) After “hand” insert—

“involving—

- (i) fixed flexion deformity of one or more metacarpophalangeal joints greater than 45 degrees that developed during the period or periods set out in the second column in relation to this paragraph; or
- (ii) fixed flexion deformity of one or more interphalangeal joints that developed during the period or periods set out in the second column in relation to this paragraph; or
- (iii) fixed flexion deformity of one or more metacarpophalangeal joints greater than 45 degrees that developed after the period or periods in the second column in relation to this paragraph if there is evidence of the onset of metacarpophalangeal joint involvement or palmar changes (nodules or thickening) during that period or periods; or
- (iv) fixed flexion deformity of one or more interphalangeal joints that developed after the period or periods set out in the second column in relation to this paragraph if there is evidence of the onset of metacarpophalangeal joint involvement or palmar changes (nodules or thickening) during that period or periods.”.

(5) In Part 1 of schedule 1 (list of prescribed diseases and the occupations for which they are prescribed), in the column headed “occupation” at entry A15 (Dupuytren’s contracture of the hand resulting in fixed flexion deformity of one or more inter-phalangeal joints of one or more of the digits)—

- (a) after “years;” insert “and”,
- (b) after “week” for “; and” substitute “.”, and
- (c) omit paragraph (c).

BEN MACPHERSON

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
3rd February 2022

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 (S.I. 1985/967), to the extent that they apply in Scotland only.

In a report (published as Command Paper Cm 8860 on 8 May 2014^(a)), the Industrial Injuries Advisory Council recommended that Dupuytren’s contracture, arising from work for ten years or more in aggregate which involves the use of hand-held powered tools, be prescribed as a disease. Regulation 2 of the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2019 (S.I. 2019/1241) introduced the prescription for Dupuytren’s contracture.

The amendments made by regulation 2 amend the prescription for Dupuytren’s contracture and provide further specification on the circumstances in which Industrial Injuries Disablement Benefit (“IIDB”) is payable. The reason for amending the prescription is to bring the regulations into line with the most up to date guidance from the Industrial Injuries Advisory Council.

Hard copies of the report may be obtained from the Department for Work and Pensions, IIDB Policy, Disability and Housing Support Directorate, Caxton House, Tothill Street, London SW1H 9NA.

A Business Regulatory Impact Assessment has been prepared for these Regulations and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Social Security Directorate.

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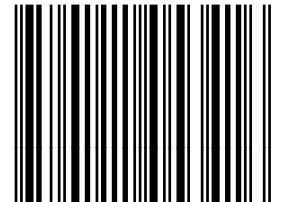
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^(a) <https://www.gov.uk/government/publications/dupuytren-s-contracture-due-to-hand-transmitted-vibration-iiac-report>

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