

POLICY NOTE

THE SOCIAL SECURITY (INDUSTRIAL INJURIES) (PRESCRIBED DISEASES) AMENDMENT (SCOTLAND) REGULATIONS 2022

SSI 2022/42

The above instrument was made 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.

Summary Box

The above amendment updates the prescription for Dupuytren's contracture which is one of the industrial diseases which are prescribed for entitlement to Industrial Injuries Disablement Benefit (IIDB). The amendment will enable updated guidance from the Industrial Injuries Advisory Council (IIAC) to be applied in IIDB assessments for clients with Dupuytren's contracture to ensure a more precise consideration of the client's condition. It is intended that this should result in more accurate and fairer assessments for clients with Dupuytren's contracture.

Policy Objectives

IIDB is a form of social security assistance for clients who have been injured or contracted a disease or health condition through the course of their employment. Individuals can receive IIDB for life provided they continue to meet the entitlement conditions.

The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of devolved social security in Scotland. On 1 April 2020, the Scottish Ministers took executive and legal competence for IIDB. IIDB continues to be delivered during a transition period by the Department for Work and Pensions (DWP) under the terms of an Agency Agreement with the Scottish Government to ensure the safe and secure devolution of disability benefits.

The Scottish Government consider it necessary to amend the The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 to enable medical assessors to use the revised IIAC guidance to assess applications for IIDB from people with Dupuytren's contracture, to the extent where they exhibit fixed flexion deformity of one or more digits and who have used vibrating tools for at least ten years. The measures amends the prescription for Dupuytren's contracture and provide further specification on the circumstances in which IIDB is payable.

The amendment is required to reflect guidance from the IIAC to support clinicians who undertake medical assessments as they relate to Dupuytren's contracture. This will be beneficial for those people who have been diagnosed with Dupuytren's disease as it will ensure that the best and most recently available scientific evidence is applied to the eligibility rules for IIDB entitlement. Amending the regulations will ensure alignment with the

equivalent change being brought forward by the UK Government. Ensuring alignment is necessary for the purposes of the Agency Agreement.

The Scottish Government intend to replace IIDB with Employment Injuries Assistance in Scotland. A date for implementation has not yet been confirmed. A public consultation and a further Equalities Impact Assessment will be undertaken to inform the delivery of Employment Injury Assistance.

Background

The Industrial Injuries Advisory Council (IIAC) is an advisory Non-Departmental Public Body which provides independent advice to the UK Government on matters relating to the IIDB Scheme and its administration. IIAC make recommendations regarding prescribed diseases based on the latest epidemiological and scientific evidence which are considered by policy officials for operational, financial and legal implications.

The reason for amending the prescription is to bring the IIDB regulations into line with the most up to date guidance from the IIAC. IIAC first recommended that Dupuytren's contracture be prescribed in May 2014. IIAC recommended that prescription should be for Dupuytren's contracture which arose from work for ten years or more in aggregate which involves the use of hand-held powered tools. The UK Government added Dupuytren's contracture to the prescribed diseases list in December 2019.

Following queries from doctors undertaking assessments to determine eligibility to IIDB relating to Dupuytren's contracture, IIAC produced an information note to clarify the assessment process and assist healthcare practitioners carrying out those assessments in May 2020.¹

Consultation

The Scottish Government has not undertaken consultation activity because of the short amount of time available to make the required amendments.

In July 2016 the Scottish Government launched a public consultation to support the development of a framework that would become the Social Security (Scotland) Bill. A total of 117 responses were received to questions relating to IIDB. Responses represented a range of opinion on IIDB however a number of responses commented on the complexity of the application process.

The independent analysis of the responses along with the Scottish Government response were published on 22 May 2017.

The Scottish Government has set up Social Security Experience Panels with over 2,400 people across Scotland registered as panel members when the Panels opened in 2017. The Panels involve people with lived experience of IIDB.

¹ [Dupuytren's contracture: clarification of intention and amendment of the prescription - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612212/Dupuytren_s_contracture_clarification_of_intention_and_amendment_of_the_prescription_-_GOV.UK.pdf)

Impact Assessments

An Equalities Impact Assessment, Island Communities Impact Assessment, Fairer Scotland Duty Impact Assessment, and a Children's Rights and Wellbeing Impact Assessment are provided with this instrument. It is anticipated from the analysis in these impact assessments that this amendment will mostly have a neutral impact on a range of equalities groups, island communities and in relation to the realisation of children's rights and improving their wellbeing. An improvement to a small number of people with Dupuytren's contracture, and their families, was identified. There are no significant equalities or rights impacts that require further consideration in relation to the commencement of these regulations.

Financial Effects

The Scottish Fiscal Commission has a statutory duty to provide independent and official forecasts of Scottish GDP, devolved tax revenues and devolved social security expenditure. Under the Scottish Fiscal Commission Act 2016, the Scottish Fiscal Commission may also produce forecasts on other "fiscal factors", defined as "anything which the Scottish Ministers use to ascertain the amount of resources likely to be available for the purposes of sections 1 to 3 of the Public Finance and Accountability (Scotland) Act 2000". The Protocol for engagement between the Scottish Fiscal Commission and the Scottish Government notes that the Scottish Fiscal Commission may produce forecasts where it considers the policy, or policies, to have a "non-negligible impact on receipts or expenditure".

These amendments fall below the Scottish Fiscal Commission's £2 million threshold for negligible policies, so they do not provide a costing to accompany these regulations. As the same changes apply in England and Wales, funding will be received through the Block Grant Adjustment process.

A Business and Regulatory Impact Assessment (BRIA) has been completed and is provided with this instrument. The Scottish Government does not believe that this amendment will have an adverse impact on the competitiveness of Scottish companies or the third sector within Scotland, the UK, or elsewhere in Europe or the rest of the world.

Scottish Government
Social Security Directorate

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