

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (INDUSTRIAL INJURIES) (PRESCRIBED DISEASES)
AMENDMENT REGULATIONS 2011

2011 No. 1497

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 set out the list of diseases and occupations prescribed for the purposes of entitlement to Industrial Injuries Disablement Benefit. This instrument adds two new diseases to the list of prescribed diseases. They are Bronchiolitis Obliterans, and Carcinoma of the nasal cavity or associated air sinuses (nasal carcinoma).

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

The Industrial Injuries Advisory Council gives advice to the Secretary of State on matters relating to Industrial Injuries Disablement Benefit. The Industrial Injuries Advisory Council recommended the addition of Bronchiolitis Obliterans and Carcinoma of the nasal cavity or associated air sinuses (nasal carcinoma) to the list of diseases covered by the Industrial Injuries Disablement Benefit Scheme. The Secretary of State agreed to implement those recommendations, and this instrument is therefore required to add those two diseases to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985.

5. Territorial Extent and application

This instrument applies to Great Britain. Similar statutory rules are to be introduced in respect of Northern Ireland.

6. European Convention on Human Rights

As the instrument is subject to the 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 Disablement Benefit Scheme provides non-contributory no-fault benefits for disablement because of an accident at work, or because of one of over 70 prescribed diseases known to be a risk arising from certain occupations.

7.2 The Industrial Injury Advisory Council is an independent statutory body that advises the Secretary of State for Work and Pensions solely on matters relating to the

industrial injuries scheme. There are specialists in occupational health and medicine, epidemiology, respiratory medicine and lawyers, as well as representatives from employers and employees. In particular, the Industrial Injuries Advisory Council advises the Secretary of State on which diseases should be prescribed for the purpose of claims to Industrial Injuries Disablement Benefit, having studied the available evidence.

- 7.3 In its reports, Bronchiolitis Obliterans and Food Flavouring Agents (Cm7439) <http://iiac.independent.gov.uk/pdf/reports/cm7439.pdf> and Chromium and sino-nasal cancer (Cm7740) http://iiac.independent.gov.uk/pdf/command_papers/Cm7740.pdf, The Industrial Injuries Advisory Council recommended adding two new diseases to the list of diseases prescribed for the purposes of entitlement to Industrial Injuries Disablement Benefit. These regulations implement the recommendations of IIAC as set out in both its reports.
- 7.4 There are conditions that must be satisfied before a disease may be prescribed for the purposes of entitlement. First the disease ought to be treated, having regard to its causes and incidence and any other relevant considerations, as a risk of a person's occupation and not as a risk common to all persons. Second, it must be possible, in the absence of special circumstances, to establish or presume with reasonable certainty the attribution of particular cases to the nature of the employment.
- 7.5 The Industrial Injuries Advisory Council found, based on the balance of evidence, that there is strong evidence of an association between work in diacetyl production or use of diacetyl as a food flavouring agent and the development of Bronchiolitis Obliterans, and recommended that the disease be added to the list of prescribed diseases.
- 7.6 The Industrial Injuries Advisory Council found evidence of a greater than doubled risk of sino-nasal cancer in workers exposed to chromium VI in the process of chromate production and chrome plating, and again recommended that the disease be added to the list of prescribed diseases.
- 7.7 Informal consolidation of the instrument will be included in due course in the Department's "The law relating to Social Security" (the Blue Volumes), which are available at no cost to the public on the internet at [The Law Relating to Social Security - DWP](#).

8. Consultation

It was decided that no formal consultation is necessary. This is a minor regulatory change that widens the coverage of the Industrial Injuries Disablement Benefit Scheme, to bring more people suffering work related diseases into the scheme. There is no policy change. The amendment is in response to advice in reports by the Industrial Injuries Advisory Council, an advisory body which consulted and took evidence from all interested parties, including medical and scientific experts, employers and unions, in producing its report. The regulations reflect Industrial Injuries Advisory Council recommendations in those reports, and were referred for its approval. No one will be disadvantaged by this change.

9. Guidance

- 9.1 Guidance detailing the additions to the list of diseases will be issued to claim processors in Jobcentre Plus who are responsible for processing Industrial Injuries claims, and to medical advisers who assess the extent of disablement in individual cases.
- 9.2 The new diseases will be added to the list of prescribed diseases for which Industrial Injuries Disablement Benefit is payable, available on the Directgov website.

10. Impact and costs impact

- 10.1 There is no impact on business or civil society organisations.
- 10.2 The impact on the public sector administration is minimal.
- 10.3 A full impact assessment has not been prepared for this instrument.

11. Regulating small business

This instrument does not apply to small business

12. Monitoring and review

This instrument implements the Industrial Injuries Advisory Council's recommendation to add the diseases Bronchiolitis Obliterans and Chromium and Sino-nasal cancer to the list of diseases covered by the Industrial Injuries Disablement Benefit scheme. No specific monitoring and review of the claims process will be carried out beyond that which takes place as part of the Department's routine data collection.

13. Contact

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