EXPLANATORY MEMORANDUM TO

THE INDUSTRIAL INJURIES BENEFIT (EMPLOYMENT TRAINING SCHEMES AND COURSES) REGULATIONS 2013

2013 No. 2540

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 this instrument

2.1 These Regulations enable implementation of section 66 of the Welfare Reform Act 2012 (trainees). Together with that section they extend the provision of industrial injuries benefit to people participating in certain employment training schemes and courses.
http://www.legislation.gov.uk/ukpga/2012/5/section/66

2.2 The Regulations also:

- define, in relation to such schemes and courses, the persons who are to be treated as if they were the employer for the purposes of industrial injuries benefit legislation

– enable industrial injuries benefit to be paid to persons to whom payments were previously payable under section 11(3) of the Employment and Training Act 1973; and

- enable claims for such payments, which were made previously but have not yet been determined, to be treated as claims for industrial injuries benefit.
http://www.legislation.gov.uk/ukpga/1973/50/section/11

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

None.

4. Legislative context

4.1 Section 66(1) of the Welfare Reform Act 2012 inserts section 95A of the Social Security Contributions and Benefits Act 1992 (“the Contributions and Benefits Act”).

4.2 Section 95A(1) provides that references to “employed earner’s employment” in the industrial injuries and diseases provisions (defined in section 95(4) of the Contributions and Benefits Act) include participation in employment training schemes and courses of a description prescribed in regulations. Regulation 2 of these Regulations prescribes these employment training schemes and courses.

4.3 Section 95A(2) provides that references to an "employer", in relation to participation in such schemes and courses, are references to persons prescribed in regulations. Regulation 3 of these Regulations provide that, for the purposes of industrial injuries benefit only, the employer is any person providing the employment training scheme or course.

4.4 Section 66(3) of the Welfare Reform Act 2012 enables regulations to provide for the payment of industrial injuries benefit (defined in section 122(1) of the Contributions and Benefits Act) to persons to whom payments were previously payable under section 11(3) of the Employment and Training Act 1973, and for claims to such payments to be treated as claims for industrial injuries benefit. Regulations 4 and 5 of these Regulations make provision to that effect.

5. Territorial Extent and application

This instrument applies to Great Britain.

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

7.1 **What is being done and why**

The Government included measures in the Welfare Reform Act 2012 to simplify and rationalise the Industrial Injuries Scheme making it easier for customers to understand and for the Department for Work and Pensions to administer. The changes will also make small contribution to deregulation.

7.2 One of the conditions of entitlement to industrial injuries benefit is that the claimant must be an employed earner. This excluded trainees who participated in approved employment training schemes to help them into work, because they could not be classified as employed earners.

7.3 Section 11 of the Employment and Training Act 1973 made separate provisions for trainees who participated in schemes approved by or on behalf of the Secretary of State to be entitled to payments of industrial injuries benefit from a separate, but analogous, scheme to (in practice the claims are dealt with in the same way, including the level of payments). The scheme providing industrial injuries benefits for trainees, provided for under the ETA 73, is commonly known as the Analogous Industrial Injuries Scheme (AIIS).

7.4 For the purposes of simplification, as outlined above, provisions in the WRA 2012 allow existing claimants paid under the AIIS to be paid under the main industrial injuries benefit scheme. For the purposes of deciding entitlement to industrial injuries benefit only, trainees who participate in

employment training schemes and courses of the kind set out in regulation 2 will be regarded as employed earners and providers of the schemes will be regarded as employers (regulation 3).

7.5 Regulation 2 defines the schemes and courses by reference to provisions in primary legislation. This ensures that the regulations will not require amendment every time the primary powers are exercised.

7.6 These schemes relate to people who are registered as unemployed and who are undertaking employment training under an employment training scheme or course that has been approved by or on behalf of Secretary of State (or the Scottish or Welsh ministers) that will assist them into work – this training may be mandatory or voluntary. The scheme is not intended for people in full time education.

7.7 The employment schemes covered are:

- schemes under section 2 of the Employment and Training Act 1973, which includes work experience, some work-related training and also relevant schemes in Scotland and Wales including those under the Employability Fund in Scotland and Steps to Employment/Work Ready and Traineeships in Wales;
- schemes under section 17A of the Jobseekers Act 1995, which includes the Work Programme, New Enterprise Allowance, sector-based work academies, skills conditionality and Mandatory Work Activity;
- work-related activity run under section 13 of the Welfare Reform Act 2007 for recipients of Employment and Support Allowance in the work-related activity group; and
- work preparation activity under section 6C of the Jobseekers Act, section 11C of the Welfare Reform Act 2007 or section 16 of the Welfare Reform Act 2012.

As the policy intention is to retain the status quo on transfer of the AIIS to the main industrial injuries benefit scheme, the list above reflects the employment schemes and courses that are already covered under the AIIS.

7.8
These Regulations do not amend any other instrument so consolidation is not required.

8. Consultation outcome

These regulations have been referred to, and agreed by, the Industrial Injuries Advisory Council. They have also been agreed by the Devolved Administrations.

9. Guidance

Minor amendments to external information portals (eg: Gov.UK) and operational guidance are already in progress.

10. Impact

An impact assessment and an equality impact assessment were published during the passage of the Welfare Reform Bill. No changes have been made to the policy intent so those assessments still stand. There is no impact on business and civil society as a result of this change.
Impact Assessment - Simplification of IIDB clauses in Bill Final
EIA Industrial Injuries

11. Regulating small business

This instrument has no impact on small business – training providers are regarded as employers but only for the purposes of claims to industrial injuries benefit – which is a benefit funded by the government.

12. Monitoring and Review

The intention of this instrument is not to make any policy changes however we will monitor the change to ensure it is implemented as expected.

13. Contact

Linda Oliver at the Department for Work and Pensions,
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linda.oliver@dwp.gsi.gov.uk can answer any queries on this instrument.