EXPLANATORY MEMORANDUM TO

THE SOCIAL SECURITY (INDUSTRIAL INJURIES) (PRESCRIBED DISEASES) AMENDMENT (NO. 2) REGULATIONS 2022

2022 No. 229

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.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument amends the Social Security (Industrial Injuries) (Prescribed Diseases) Amendment Regulations 2022 S.I. 2022/214 ("the SSIIPDA Regulations"), to correct a defect by providing a date on which these Regulations come into force.

2.2 The procedure for free issue of these Regulations has been applied and these Regulations are being issued free of charge to all known recipients of the SSIIPDA Regulations.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The SSIIPDA Regulations were made without containing a commencement date within the body of the regulations.

3.2 This was due to an inadvertent error in the preparation of the SSIIPDA Regulations where, although a coming into force date was contained in the header section, it was not stated in the body of the Regulations. However, the intent to include such a date was clear from the inclusion, in regulation 1(1) of the words "and come into force on […]".

3.3 The Department has considered how this error should be corrected and accordingly will amend the SSIIPDA Regulations to insert the coming into force date so that the SSIIPDA Regulations come into force on the intended date, 28 March 2022.

3.4 These Regulations will be made and laid before Parliament on the same day as the SSIIPDA Regulations, so as to comply with the original timetable for the SSIIPDA Regulations. It seems unlikely that there will have been any prejudice as a result of the error in this case. However, in order to insert the commencement date into the SSIIPDA Regulations in line with their laying date, it is necessary for these Regulations to come into force on the date on which they are made and laid before Parliament, which will mean that the 21 day rule is breached. The Department apologises for this breach but considers that this approach best remedies the error in the SSIIPDA Regulations.

3.5 The Department has considered how the error in this case occurred. It appears that the error was accidental and we are considering what further checks can be put in place to ensure that a similar error does not occur in the future. The Department apologises for this error.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 These Regulations amend the SSIIPDA Regulations to correct a defect by inserting the coming into force date.

7. Policy background

What is being done and why?

7.1 The Industrial Injuries Advisory Council (IIAC) is a non-departmental public body[1] - its role is set out in Part V, Section 62 of National Insurance (Industrial Injuries) Act 1965. Its functions are set out in Part XIII of the Social Security Administration Act 1992[2] - Sections 171, 172 and 173 and Schedule 6 of the Social Security Administration Act 1992 cover IIAC's functions. IIAC advises the Secretary of State for Work and Pensions on matters solely related to industrial injuries benefits, including Industrial Injuries Disablement Benefit (IIDB). In particular, IIAC advises the Secretary of State on the diseases which it recommends should be listed (or "prescribed") within the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985[3] (the "1985 Regulations") as conditions capable of giving rise to entitlement to IIDB. IIAC advises the Department based upon the most relevant scientific evidence available.

7.2 IIAC reviewed the link between work involving the use of hand-held vibratory tools and Dupuytren's disease, in which thickening of fibrous tissue in the palm and tendons of the finger leads, in more advanced cases, to the fingers becoming permanently bent. This stage of the disease is known as Dupuytren's contracture. IIAC found in their command paper Cm8860, that there was sufficient evidence for this disease to be prescribed. Subsequent to the publication of their command paper, IIAC reviewed the terms of their proposed prescription to ensure it reflected their recommendations regarding the severity of an individual's symptoms. Dupuytren's contracture was added to the list of prescribed diseases in December 2019.

7.3 Following queries from doctors undertaking these assessments, the Department asked IIAC for further guidance about these assessments. In response, they produced an information note in May 2020 to clarify the assessment process and assist healthcare practitioners carrying out those assessments. The revised IIAC guidance goes wider than the prescription as set out in the 1985 Regulations and, therefore, required secondary legislation to change the prescription for the disease and the SSIIPDA Regulations reflects those changes. Those changes ensure that the prescribed list of

[1] http://www.legislation.gov.uk/ukpga/1965/52/enacted
[2] http://www.legislation.gov.uk/ukpga/1992/5
[3] http://www.legislation.gov.uk/uksi/1985/967/part/I/made

diseases for which IIDB may be payable stays up to date in terms of scientific knowledge.

7.4 The previous guidance from IIAC only included reference to changes to finger joints (Interphalangeal joints (IPJ)). The clarification from IIAC includes further detail in relation to IPJ involvement and also includes changes to knuckle joints (Metacarpophalangeal joints (MCPJ)). The new prescription under this instrument will be satisfied where the occupational requirements are met and there is reliable evidence of changes during or after the period of occupation.

7.5 The SSIIPDA Regulations were intended, as set out in the header, to come into force on 28 March 2022. However, this date was not inserted into regulation 1(1) prior to the Regulations being made, although it is apparent that a prospective commencement date was intended from the wording of regulation 1(1). These Regulations insert the intended commencement date into regulation 1(1) of the SSIIPDA Regulations.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 Informal consolidated text of instruments is available to the public free of charge via 'the National Archive' website http://www.legislation.gov.uk/.

10. Consultation outcome

10.1 There is no duty to consult on these changes and a consultation has not been carried out. However, IIAC have been consulted on the SSIIDPA Regulations.

11. Guidance

11.1 None.

12. Impact

12.1 There is no, or no significant impact on the business, charities or voluntary bodies.

12.2 There is no, or no significant impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because no, or no significant, impact on business, or the private, voluntary or public sector, is foreseen.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 No specific monitoring or review of new claims volumes will be undertaken, beyond that which is already undertaken as part of the Department's routine data collection.

15. Contact

15.1 Mandeep Kooner at the Department for Work and Pensions Telephone: 07901 114043 or email: mandeep.kooner@dwp.gov.uk can be contacted with any queries regarding the instrument.

15.2 Louise Everett, Deputy Director for IIDB Policy, at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.

15.3 Chloe Smith, Minister for Disablement People, Work and Health at the Department for Work and Pensions can confirm that this Explanatory Memorandum meets the required standard.