EXPLANATORY MEMORANDUM TO THE SOCIAL SECURITY (INDUSTRIAL INJURIES) (PRESCRIBED DISEASES) AMENDMENT REGULATIONS 2006

2006 No 586

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. Description

2.1 These regulations make amendments to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985, which prescribe diseases for which Industrial Injuries Disablement Benefit is paid. The conditions that must be satisfied before a disease is prescribed are that the disease ought to be treated, having regard to its causes and incidence and any other relevant considerations, as a risk of their occupations and not as a risk common in all persons; and is such that, in the absence of special circumstances, the attribution of particular cases to the nature of the employment can be established or presumed with reasonable certainty.
These regulations amend the prescription for 3 existing Prescribed Diseases, 2 in respect of asbestos-related diseases and 1 due to chemical agents.

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

3.1 None

4 Legislative Background

4.1 Under section 171 of the Social Security Administration Act 1992, the Industrial Injuries Advisory Council (IIAC) gives advice to the Secretary of State on matters relating to Industrial Injuries Disablement Benefits. In July and November 2005 IIAC published 2 reports which recommended changes to the prescription for 3 existing prescribed diseases. The recommendations were accepted by Minister and these regulations make the necessary amendments to the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985.

5 Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy Background

7.1 These regulations implement the recommendations of IIAC as set out in their reports Asbestos-Related Diseases (Cm 6553) and Vinyl Chloride Monomer-Related Diseases (CM 6645).

7.2 IIAC is an independent statutory body that advises the Secretary of State for Work and Pensions solely on matters relating to the Industrial Injuries Benefit scheme. In particular, IIAC advises the Secretary of State on which diseases should be prescribed or amended for the purpose of claims to Industrial Injuries Disablement Benefit, having studied the available evidence.

7.3 The recommendations, made in the IIAC reports, were fully accepted by the Minister of State for Employment and Welfare Reform. The changes amend 3 existing diseases.

7.4 The 3 existing diseases are amended as follows:

- Lung Cancer. Asbestosis and pleural thickening were originally included in the terms of prescription for asbestos-related lung cancer. The report recommends that pleural thickening is an unreliable marker and it is therefore removed. The report also acknowledges that where asbestosis is already present the lung cancer can reasonably be attributed to occupational exposure and should remain unchanged. But in light of recent evidence the report recommends adding lung cancer in the absence of asbestosis where there is evidence of substantial occupational asbestos exposure in specified occupations. In recognition of the poor prognosis of the disease claims will be assessed at 100% disabled from the outset.
- Diffuse pleural thickening. The report recommends the terms of the prescription are amended to remove reference to specific measurements of the degree of pleural thickening. In order to simplify matters, diagnosis is by means of as chest x-Ray. There is no change to the occupational coverage.
- Exposure to Vinyl Chloride Monomer. This is amended so that each of the conditions specified, if diagnosed, can independently lead to an assessment of disablement, provided exposure to the chemical has occurred in the manufacture of PVC.

7.5 No formal consultation has taken place, however IIAC invited evidence from medical and scientific experts and claimants' groups before making their recommendations.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

8.2 This instrument will incur additional programme expenditure but administrative costs will remain the same.

9. Contact

June Anderson at the Department for Work and Pensions Tel: 0113 2327671 or mailto:june.anderson@jobcentreplus.gsi.gov.uk can answer any queries regarding the instrument.