EXPLANATORY MEMORANDUM TO

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

2022 No. 214

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.

2. Purpose of the instrument

2.1 Dupuytren's contracture is already listed as a prescribed disease. This instrument will provide clarification of the conditions under which are person who is diagnosed with this disease is entitled to Industrial Injuries Disablement Benefit ("IIDB") by amending the current prescription for Dupuytren's contracture in Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985[1] (the "1985 Regulations").

3. Matters of special interest to Parliament

3.1 None.

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 The Secretary of State for Work and Pensions has accepted the advice of the Industrial Injuries Advisory Council (IIAC), that provides further clarity and specific guidance to assist healthcare practitioners carrying out assessments of Dupuytren's contracture disease, which is already listed as a prescribed disease for which IIDB may be payable. This guidance is set out in their Information Note (published on IIAC section of gov.uk in May 2020[2]: "Dupuytren's contracture: clarification of intention and amendment of the prescription" similar to the recommendation in the Command Paper Cm8860[3]: "Dupuytren's contracture due to hand-transmitted vibration". This instrument reflects the original IIAC recommendation for the prescription of the regulations and ensures that the 1985 Regulations, reflect this prescribed disease.

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[1] http://www.legislation.gov.uk/uksi/1985/967/part/I/made

[2] https://www.gov.uk/government/publications/dupuytrens-contracture-clarification-of-intention-and-amendment-of-the-prescription/dupuytrens-contracture-clarification-of-intention-and-amendment-of-the-prescription

[3] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/308645/dupuytrens-contracture-report.pdf

7. Policy background

7.1 The Industrial Injuries Advisory Council (IIAC) is a non-departmental public body[4] - it's 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[5] - 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 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 regulations, therefore, requires secondary legislation to change the prescription for the disease, and, this instrument reflects those changes. The changes ensure that the prescribed list of 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.

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/.

[4] http://www.legislation.gov.uk/ukpga/1965/52/enacted
[5] http://www.legislation.gov.uk/ukpga/1992/5

10. Consultation outcome

10.1 There is no duty to consult on these changes and a consultation has not been carried out. These changes are being made to assist clinicians with the assessment of claimants suffering from Dupuytren's contracture, subsequent to the recommendation provided by the Industrial Injuries Advisory Council (IIAC) to the Secretary of State on the basis of published scientific evidence. However, IIAC have been consulted on these new Regulations.

11. Guidance

11.1 A guidance bulletin detailing these changes will be issued to claims processors in the Barnsley, Barrow and Bradford offices of the Department for Work and Pensions with responsibility for processing new claims for Industrial Injuries Disablement Benefit (IIDB), when the new regulations will come into force/effect. The list of prescribed diseases for IIDB as set out within the IIDB Technical Guidance, and published on the Gov.uk site[6], will be updated. These measures will be undertaken in advance of this statutory instrument coming into force.

11.2 Medical guidance to support health care professional undertaking IIDB assessments will also be updated by the assessment provider to reflect the new regulations.

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.

[6] https://www.gov.uk/government/publications/industrial-injuries-disablement-benefits-technical-guidance