



27 January 2021

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Dear Mr Griffin

Proposed Scottish Employment Injuries Advisory Council Bill consultation

Everyone has the right to go to work without fear of injury or illness. When the worst does happen, members of the Association of Personal Injury Lawyers (APIL) a not-for-profit campaign group, help those injured through negligence at work to secure compensation and support, such as rehabilitation. Not everyone who is injured or becomes ill through work, however, will be entitled to compensation from their employer, but they might still qualify for the new employment injuries assistance (EIA) once it has been introduced.

For those people, a functioning welfare system is important to improve their quality of life. There must, therefore, be proper oversight of the relevant benefit to ensure not only that it is fit for purpose for those eligible, but that it evolves in response to new workplace hazards and diseases. If it remains the intention of the Scottish Government to replace industrial injuries disablement benefit (IIDB) in Scotland with EIA, we agree that a Scottish Employment Injuries Advisory Council should be created to provide oversight of the benefit.

The establishment of the SEIAC must not mean that Scotland works in isolation from the rest of the UK in support for injured workers. A close working relationship must exist between the SEIAC and the Industrial Injuries Advisory Council (IIAC) to take advantage of experience and expertise from across the UK. If the two councils do not work together, there is a risk that injured workers in different parts of the UK could fail to receive support while improvements to the benefit are made in one jurisdiction, such as an expansion to the criteria for eligibility.

A situation could arise, for example, in which the IIAC becomes aware of a new workplace disease in England, but which is not yet apparent in Scotland. After a review of medical and scientific research, the IIAC may recommend to the Department for Work and Pensions a change to eligibility for IIDB. The IIAC would no longer have a statutory role in Scotland, and could not, therefore, make a similar recommendation to the Scottish Government. Working together would facilitate sharing the IIAC's research with the SEIAC, which otherwise may be unaware of the full effects of the disease. A recommendation could then be made by the SEIAC to the Scottish Government to amend eligibility for EIA if the new disease affects Scottish workers. There could also be the situation where the SEIAC becomes aware of a particular problem, and its work could encourage the IIAC to consider its own response.

The ability of the SEIAC to conduct investigations and review industrial and employment hazards would ensure EIA is available for those who need it, but it would also contribute to the improvement of workplace safety. If the Scottish Government, regulators and employers were made aware of new hazards identified by the SEIAC, it would be expected that action would be taken to reduce those hazards, and keep workers safe.

If a worker were injured or made ill by a hazard identified previously by the SEIAC, and the Scottish Government had accepted a recommendation to make EIA available for the illness or injury, it could increase the chances of obtaining compensation through the courts. It would be much harder for employers who had failed properly to address the hazard to claim they were unaware of a potential illness, or practice which could cause injury. This could ensure injured people receive much-needed compensation from the wrongdoer who had been negligent, and reduce the burden on the state to which the injured worker would otherwise turn for help and support.

I hope that our response will be helpful as you develop further your proposed Scottish Employment Injuries Advisory Council Bill.

Yours sincerely

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