

Proposed Scottish Employment Injuries Advisory Council Bill

Introduction

A proposal for a Bill to establish a Scottish Employment Injuries Advisory Council to shape, inform and scrutinise the social security available to people injured in the course of their employment. The consultation runs from 10 November 2020 to 1 February 2021. All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document. Questions marked with an asterisk (*) require an answer. All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response. Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded. Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here: [Consultation Document Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used

About you

Please choose whether you are responding as an individual or on behalf of an organisation. Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Academic with expertise in a relevant subject

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

Emeritus Prof of Occupational Medicine, Aberdeen University, previous Director of Institute of Occupational Medicine, Member IIAC 2010-15, previous Chair UK Expert Panel on Air Quality Standards 1990-2000, author of books on occupational diseases and other matters.

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Professor Anthony Seaton CBE FMedSci

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

[REDACTED]

Aim and approach

Q1. Which of the following best expresses your view of establishing in law a new, independent Scottish Employment Injuries Advisory Council (SEIAC)?

Fully agree

Please explain the reasons for your response.

Having served on IIAC and had many dealings with it over 40 years, I believe such a body is necessary to advise on regulations in this area, many aspects of which are both tricky and contentious. Its independence is crucial. Moreover, a detailed review of the current UK regulations and their application in Scotland is timely.

Q2. Which of the following best expresses your view of giving a statutory Scottish Employment Injuries Advisory Council the following functions?

	Fully agree	Partially agree	Neutral	Partially disagree	Fully disagree	Unsure
Scrutinise legislative proposals on the overarching design of the employment injuries assistance (EIA) system and its entitlement policy.	X					
Continually advise and recommend changes to EIA (including on policy design and entitlement)	X					

Q2. Which of the following best expresses your view of giving a statutory Scottish Employment Injuries Advisory Council the following functions?

Investigate and review emerging industrial and employment hazards	X					
Commission its own research and make recommendations	X					

Please explain the reasons for your response.

The expertise and experience of such a committee would make the task of Ministers very much easier. A research budget for literature epidemiological research would facilitate the committee's ability to give up-to-date advice, since many of the questions that arise have a plausible hypothesis but insufficient evidence.

Q3. What (if any) do you think would be the main advantages of the proposed Bill?

Questions will inevitably arise from injured parties, trades unions and the public about why such benefits are not payable, etc. Advice to Ministers will have to be obtained and such a body has proved essential since the latter 19th century. If IIAC is not available, Scotland will find it needs its own, as a cost-effective solution.

Q4. What (if any) do you think would be the main disadvantages of the proposed Bill?

None is obvious to me. I should have liked to see a mention of the role of such a committee in prevention of occupational illness and injury, as this is even more important than compensation. IIAC always stresses the preventive aspects in its reports and links with HSE.

Q5. Which of the following best expresses your view of making it a legal requirement that the SEIAC's membership includes workers with experience of being exposed to the risk of workplace injury, and their representatives, including trade unions?

Partially disagree

Please explain the reasons for your response.

It would be usual to have representatives with special expertise from both trades unions and employers, but they must have that expertise in health, safety or legal aspects to be useful. I fully agree with this, which has certainly been the case in IIAC. Being required to have someone with actual disability is irrelevant to this sort of committee unless it is involved in discussing levels of payment and degrees of disablement. I guess every employed person has exposure to physical or psychological risk in the workplace. It's rather like having a lay member to represent non-specialists - such people are rarely helpful even though they sound like a good idea and often sit looking bored through highly technical discussions. They have a role occasionally in report-writing if the specialists can't write clearly

Q6. Which of the following best expresses your experience of the current Industrial Injuries Disablement Benefit (IIDB) scheme (personally and/or professionally)?

Mixed experience

Please explain the reasons for your response. Please do not provide personal information or highly specific information which might identify you (if you wish to remain anonymous) or any third parties in your answer.

The system is very complex, especially where it comes to deciding on the occupational element in

Q6. Which of the following best expresses your experience of the current Industrial Injuries Disablement Benefit (IIDB) scheme (personally and/or professionally)?

causation of diseases common in the general population. For example, osteoarthritis of the major joints, COPD, major mental disease, COVID-19, rheumatoid diseases, to name a few. It is also difficult even in some cases of established occupational disease and their complications, such as silica exposure and scleroderma. In such cases, epidemiological evidence doesn't help and one needs to understand dose of exposure from an occupational history. This is something that needs careful thought when setting up the system - it is where IAC has failed.

Financial Implications

Q7. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost-neutral	Some reduction in cost	Significant reduction in cost	Unsure
(a) Government and the public sector					X	
(b) Businesses			X			
(c) Individuals					X	

Please explain the reasons for your response

I assume the scientists will receive only a small honorarium plus expenses and the civil servants will provide the secretariat. The cost-savings should come from not having to pay commercial fees to other bodies for the advice. Individuals may be saved having to go to law.

I would consider making awards repayable if a civil award is received for the same injury.

Q8. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

As many applicants in Scotland will be public employees, savings in legal costs could be substantial if awards are conditional on not taking subsequent legal action. Again, I stress the importance of a preventive message from the work of the committee. Work-related sickness absence is a considerable cost on employers, including the Scottish government.

Equalities

Q9. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

Slightly positive

Q9. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

Please explain the reasons for your response.

IIAC is very aware of these issues and mentions them in all its reports. The Scottish committee should do the same and should have a similar small effect, primarily on gender issues.

Q10. In what ways could any negative impact of the Bill on equality be minimised or avoided?

I don't see it making matters worse

Sustainability

Q11. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

Please explain the reasons for your response.

In my years in IIAC we received a proportion of our train fares and a small allowance for any overnight stay in London. In Scotland the carbon footprint of a committee like this will be minimal. The secretarial help and photocopying probably cost most and the latter could have been reduced.

General

Q12. Do you have any other comments or suggestions on the proposal?

There are several requirements for such a committee that should be thought through. The medical/occupational expertise should cover a wide range. Legal expertise is very useful. A literature search function must be provided. Cross representation in the civil service secretariat with other areas (pensions, workplace safety, armed services disability, NHS) may be useful. Finally, IIAC members always had strong personal links with university departments that could provide support for further research. In Scotland there are very few such organisations (IOM and Glasgow Public Health). I assume you are involving them in this consultation. I declare an interest - I have long-standing links with IOM, which I was responsible for converting to a self-funding charity.