

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.

on behalf of an organisation

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".)

No Response

Please select the category which best describes your organisation

Representative organisation (trade union, professional association)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

Usdaw is a general trades union with members in retail, distribution, financial services and manufacturing.

Please select the category which best describes your organisation

We represent members on a daily basis who have been injured in the workplace or have developed diseases associated with their work. Our Health & Safety Officer currently sits as one of the representatives of employed earners on the UK IIAC.

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).

Usdaw

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.

- The current IIDB benefit system does not reflect modern, 21st century work, work patterns, hazards and diseases, or Scottish demography. The introduction of devolved powers for a new Employment Injuries benefit in Scotland gives us the opportunity to change that. We need a new Scottish Council that is built to think about overcoming these issues for our new benefit.
- Workers, their trade unions and experts must have a seat at the table when it comes to designing a new employment injuries benefit system. The particular knowledge based upon experience which they will bring to the discussions will ensure that any benefit is fit for purpose. The bill for a new Council would protect in law this membership requirement so it cannot be easily changed or closed down.
- The Westminster Industrial Injuries Advisory Council (IIAC) is not set up to commission new research in a way that would help to overcome the shortcomings of the IIDB system, and in Scotland we aren't allowed to rely on the Westminster IIAC anyway. A new more powerful council, created in Scotland for Scotland, is needed.

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

Please explain the reasons for your response.

- There are issues with the IIDB scheme that we have inherited. The list of Prescribed Industrial Diseases reflects the history of the scheme and its reliance on the established body of occupational medical and epidemiological research. The number of new claims for some PIDs is falling simply because the occupations or industries covered by the prescription no longer exist. Reliance on the historic body of research means that many modern workplace diseases and occupations are not covered by the scheme. In particular, women are at a disadvantage because of the gender gap in the research. An independent Scottish Council with the power to commission its own research and to focus on workplaces and hazards that are currently under-researched or poorly understood would help to bring the benefit scheme in Scotland more up to date.
- A new scrutiny body for Scottish employment injuries benefit is needed so that the experts – including workers and their trade unions – are closer to decision-making process, adding strength and authority to the advice it issues. The complicated science, terminology and research will require workers' expertise to understand the intensity and scale of injury and disease being considered.

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

- Workers and their trade unions would be a vital part of the research and decision-making process that affects them and their colleagues.
- It would help to update the no-fault compensation scheme to make it more relevant for workers in the 21st century.
- The work of the new Council would raise the public profile of the current occupational causes of ill health and injury and draw attention to the need for preventive measures to make work safer and healthier.

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

- There may be a fear among policy makers and employers that a renewed and modernised scheme may result in more claims and greater bureaucracy to administer the scheme.
- However even if we were to simply carry on with the legacy IIDB scheme, we would still have to have bureaucracy in place to administer the complicated rules that would be increasingly outdated and unfair. There is a considerable cost to employers, the economy and most directly to the workers and their families from the burden of ill health arising from occupational illness and injury. A scheme which addressed those issues and overcame the inequalities in the existing scheme would be fairer and more just. By raising awareness of the hazards and researching the causes of that burden in the modern workplace, the Council's work would help to improve occupational health and safety standards to the benefit of employers and the economy.

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?

Fully agree

Please explain the reasons for your response.

- Workers and their trade unions know best about the continuously evolving hazards, disease and risk of injury they face. Their involvement in the decision-making process that affects them and their colleagues cannot be disregarded.
- Trade Unions help thousands of workers secure justice in the workplace every day – including when there is a failure in health and safety. Their involvement must be a vital part of the research commissioning and advice, so that the right information is acquired and embedded in the work of the Council.

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.

Given the type of jobs that Usdaw members do, the occasions on which they may be entitled to apply for IIDB for a prescribed disease are limited. In some cases such as the rare occasion where a member has an asbestos-related cancer, a claim may be possible. But over the years we have dealt with members pursuing personal injury claims for repetitive strain injuries in meat processing or in retail or for occupational deafness in food manufacture or in distribution warehouses where the possibility of a parallel application for IIDB was simply not possible because of the narrow definitions in the prescriptions.

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

- Government will have to fund the Council; however, this is to be expected as it has taken on new powers. It may have to finance any widening of entitlement. However this may be necessary on grounds of fairness and equity and may be offset by improvements to health and safety standards.
- Business is likely to benefit long-term from a renewal of the industrial injuries system as new data, research and policy can pinpoint where hazards exist in their workplaces and how they can reduce the cost of injury or disease by taking preventative action. They may benefit from reduced litigation.

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

- Individuals will benefit from the preventative impact of research and data in their workplaces. They may also gain entitlement should the worst happen, and they experience injury or disease as a result of their work. If there is wider entitlement this may also reduce the financial implications (including the related emotional cost) of pursuing a personal injury claim.

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

No Response

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?

Positive

Please explain the reasons for your response.

- Workers disabled in their workplace are likely to have greater involvement in the benefit system that is available to them.
- As mentioned earlier in our response simply carrying forward the current IDB system without any change would risk embedding a system that promotes inequalities and fails to reflect modern Scotland.

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

No Response

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.

- Social security systems are a vital part component of some people's income, and an increased focus on Scotland-specific industries could lead to more relevant research and advice.
- Increased, more relevant research could lead to policies more tailored to the Scottish context, and so support people who have been injured, or who work in an occupation where this is more likely. This in turn could help to reduce inequality and could result in the prevention of some industrial diseases.

General

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

No Response