

Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill

[AS INTRODUCED]

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**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:
Explanatory Notes (SP Bill 65-EN), a Financial Memorandum (SP Bill 65-FM), a Policy
Memorandum (SP Bill 65-PM) and statements on legislative competence (SP Bill 65-LC).**

Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to enable the recovery, from those making compensation payments to people with an industrial disease, of contributions towards the costs incurred by the NHS in Scotland in treating those people; and for connected purposes.

1 Liability for relevant NHS charges

- 5 (1) Section 150 of the Health and Social Care (Community Health and Standards) Act 2003 (the “2003 Act”) is amended as follows.
- (2) For subsection (5) (restriction on definition of injury) substitute—
- “ (5) “Injury” includes an industrial disease but otherwise does not include any disease. ”.
- 10 (3) After that subsection, insert—
- “ (5A) “Industrial disease” means a disease—
- (a) arising out of the employment of the injured person,
 - (b) arising out of the employment of any person associated with the injured person, or
 - 15 (c) which makes the person suffering from the disease eligible for employment-injury assistance under regulations made by the Scottish Ministers under section 33 of the Social Security (Scotland) Act 2018.
- (5B) A person (A) is associated with an injured person (B) if there is a causal link between the disease suffered by B and A’s employment.
- 20 (5C) A person making a compensation payment relating to an industrial disease is not liable to pay the relevant NHS charges in respect of treatment or ambulance services provided before the date on which subsection (5A) comes into force.
- (5D) A person making a compensation payment relating to an industrial disease is not liable to pay the relevant NHS charges if the industrial disease was caused
- 25 by harmful events, such as exposure to harmful substances, which had ceased before the date on which subsection (5A) comes into force.
- (5E) For the purposes of this section, “harmful events” includes events giving rise to a material increase of risk where a person is liable in delict or tort for exposing the injured person to a material increase of risk.”.

2 Liability for NHS charges: further provision

- (1) Section 153 of the 2003 Act (information contained in certificates) is amended as follows.
- (2) In subsections (2) and (6), after “(3)” insert “or (3A)”.
- (3) After subsection (3), insert—

5 “(3A) If a certificate meets both the conditions mentioned in subsection (3B), the amount (or amounts) specified in the certificate is (or are) to be that (or those) which would be so specified, apart from this subsection, reduced by the amount mentioned in subsection (3C).

(3B) The conditions are—

- 10 (a) the certificate relates to a claim for compensation for an industrial disease made by or on behalf of an injured person, and
- (b) the compensation payment made to the injured person relates in part to harmful events, such as exposure to harmful substances, occurring before the date on which section 150(5A) comes into force.

15 (3C) The amount is an amount calculated under regulations by reference to the proportion of the compensation payment that relates to harmful events occurring before the date on which section 150(5A) comes into force.

20 (3D) For the purposes of this section, “harmful events” includes events giving rise to a material increase of risk where a person is liable in delict or tort for exposing the injured person to a material increase of risk.”.

3 Exclusion of effect on contracts of insurance

After section 164(1) of the 2003 Act (liability of insurers) insert—

25 “(1A) Subsection (1) does not apply where the injury in respect of which a compensation payment is made is an industrial disease as defined in section 150(5A).”.

4 Regulations

In paragraph (b) of subsection (7) of section 195 of the 2003 Act (orders and regulations), after “153(2)” insert “or (3C)”.

5 Commencement

- 30 (1) Sections 1 to 4 come into force at the end of a period of 1 year beginning with the day of Royal Assent.
- (2) The other provisions of this Act come into force on the day after Royal Assent.

6 Short title

35 The short title of this Act is the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Act 2020.

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An Act of the Scottish Parliament to enable the recovery, from those making compensation payments to people with an industrial disease, of contributions towards the costs incurred by the NHS in Scotland in treating those people; and for connected purposes.

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