

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

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

Financial Memorandum

Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill, introduced in the Scottish Parliament on 9 March 2020. It has been prepared by the Parliament's Non-Government Bills Unit on behalf of Stuart McMillan MSP, the member who introduced the Bill.

2. The following other accompanying documents are published separately:

- statements on legislative competence by the Presiding Officer and the member who introduced the Bill (SP Bill 65–LC);
- Explanatory Notes (SP Bill 65–EN);
- a Policy Memorandum (SP Bill 65–PM).

Background

Policy objectives of the Bill

3. The aim of the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill is to allow the Scottish Government to recover the cost of treating industrial diseases in National Health Service (NHS) hospitals in cases where there is a “compensator” – that is, someone who has made a compensation payment in respect of the disease. The Bill builds on the principle, already well-established in cases of personal injury,

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

that where a person requires hospital treatment as a result of the negligence of another party, it is that other party – rather than the taxpayer – that should cover the cost to the National Health Service.

4. The objective is both to reduce the burden on the taxpayer-funded NHS (freeing up resources for others in need of treatment) and to incentivise employers to improve working conditions, particularly in hazardous industries, and to take a more precautionary approach in respect of working conditions that could in future turn out to be the cause of industrial diseases.

How the current NHS cost-recovery system works

5. An incident occurs and results in a person (A) being injured. A then receives NHS treatment at an NHS hospital (or is provided with NHS ambulance services, or both). A later pursues a compensation payment from another person (B, who may be an individual or an organisation) who is, or is alleged to be, liable to some extent for the injury.

6. As soon as A makes a claim for compensation, B (or B's legal representative) must notify the Compensation Recovery Unit (CRU) at the Department for Work and Pensions (DWP) that a claim for compensation has been made. This notification must include the details of the hospital where treatment was provided as a result of the incident.

7. The CRU then makes enquiries with the relevant hospital trust (or health board, for Scottish claims) to establish the treatment that was provided. The CRU may also need to contact the compensator, the injured person's representative or the injured person directly. Once these enquiries are completed, the CRU will issue a certificate of NHS charges. The compensator must pay the amount shown on the certificate within 14 days of either making a compensation payment (either an interim or final payment), or if a compensation payment has already been made, within 14 days of the certificate being issued. The CRU then repays the NHS charges directly to the responsible NHS body or ambulance service.

8. The relevant period in respect of which NHS charges may be recovered by the DWP begins on the first day that treatment was provided following the incident. The period ends on: the day a compensation payment is made in final discharge of a claim; the date an agreement is

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

made under which an earlier compensation payment is treated as having been made in final discharge of any claim, or when an appropriate tariff limit is reached (further details on the tariff limits is set out below).¹ In cases where the amount of compensation paid to the claimant has been reduced (for example, by a court order, or by an agreement between the parties) to reflect the claimant's share of responsibility for their injuries, the amounts in the certificate must be reduced in the same proportion.

9. Claims are processed by the CRU regardless of where in Great Britain the incident or claim for compensation took place.² In any case where the injured person is treated at a NHS hospital in Scotland, or where the injured person was taken by ambulance to a NHS hospital in Scotland, the compensator's liability is to repay the NHS charges to the Scottish Ministers but the administration is carried out by the CRU (operating on Ministers' behalf), just as it is for cases in England and Wales (where the CRU operates on behalf of the Secretary of State). The CRU also deals with the recovery of benefits.

10. At present, disease cases are excluded from the NHS cost-recovery scheme (except where the disease in question is directly attributable to an injury suffered by the claimant). The Bill expands the scheme to include recovery of costs incurred from treating industrial diseases in Scotland.

Methodology and data

11. The Bill defines an "industrial disease" as a disease "arising out of the employment" of the injured person or a person associated with the injured person, or "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".³ The power to make regulations under section 33 of the 2018 Act relates to employment-injury assistance given to an individual, on account of the

¹ Para. 10.6: <https://www.gov.uk/government/publications/recovery-of-benefits-and-or-lump-sum-payments-and-nhs-charges-technical-guidance/recovery-of-benefits-and-lump-sum-payments-and-nhs-charges-technical-guidance>

² There is a separate Compensation Recovery Unit in Northern Ireland, which is part of the Northern Ireland Social Security Agency.

³ <http://www.legislation.gov.uk/asp/2018/9/section/33/enacted>

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

individual, or another individual, having suffered an injury, or contracted a disease, in the course of employment. The Explanatory Notes to the 2018 Act state that “In practice this type of assistance would be used to create Scottish industrial injuries benefits, within the limits of devolved competence.”⁴

12. It is reasonable to assume that employment-injury assistance would cover similar industrial diseases to the current Industrial Injury Disablement Benefit (IIDB) administered by the DWP. This covers over 70 diseases and conditions including Asbestosis; Diffuse Pleural Thickening; Mesothelioma; Deafness; Vibration White Finger; Carpal Tunnel Syndrome; Dermatitis; Tenosynovitis; Chronic Obstructive Pulmonary Disease (COPD); Pneumoconiosis and Asthma.⁵

13. The Bill includes provision to ensure that it has no retrospective effect. Liability to repay NHS costs for treating an industrial disease does not apply in respect of treatment received before the date on which the main provisions of the Bill come into force. Nor is there liability to repay such costs where the disease was caused by harmful events all of which took place before that date.

14. However, in many cases, industrial diseases cannot be so straightforwardly attributable. Some disease may be triggered by a single incident but in a context where it is difficult or impossible to establish retrospectively when that incident occurred (where the nature of a person’s employment means that they may be routinely exposed to the risk of such an incident and an incident may not be noticeable at that time). This is particularly the case where the disease is known to have a long latency period – that is, where there may be a long period between exposure and the development of symptoms. In other cases, the disease may be attributable to repeated exposure over an extended period – that is, where it is the cumulative effect of damage caused throughout the period of exposure that requires treatment, rather than damage caused by a specific incident or incidents during that period.

15. The Bill therefore makes the compensator liable only to the extent that exposure to the industrial hazard occurred after the date on which the

⁴ <http://www.legislation.gov.uk/asp/2018/9/notes/division/2/2/2>

⁵ <https://www.gov.uk/industrial-injuries-disablement-benefit/eligibility>

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

main provisions of the Bill come into force. For example, if the person with the industrial disease worked for the compensator for a five-year period, of which three years were post-commencement, only that latter period would be taken into account in assessing the compensator's liability to repay the NHS costs. Accordingly, if the proportion of the damage attributable to exposure to hazards during that three-year period was reckoned at 65% of the total damage caused during the five-year period, the employer's liability would amount to 65% of the NHS costs.

16. In some cases, a person with an industrial disease might have had multiple employers, and there may therefore be a number of compensators involved (each liable for a share of the total damages). If all the relevant periods of employment post-dated the relevant provisions coming into force, liability for NHS costs could be allocated on the same basis; otherwise a separate allocation would be required, reflecting the employers' respective shares of the post-commencement exposure.

17. The non-retrospective nature of the Bill makes it difficult to predict the number of cases that may fall under the Bill's provisions. Workplace environments have improved to limit exposure to industrial diseases, and many of the current industrial diseases being treated are the result of historic cause, such as exposure to asbestos. As exposure to asbestos was not controlled until the mid-1990s, there may still be people who are yet to show symptoms of asbestos-related disease. However, as the exposure that caused the disease will have taken place before the commencement of the Bill, claims relating to these cases would not be covered by the Bill's provisions. It is therefore expected that future numbers of cases of industrial disease will depend on the nature of the disease and the prevalence of working practices likely to cause them. It could be assumed that, as more steps are being taken to reduce exposure of employees to risk factors for industrial disease, the number of industrial disease cases would trend downwards. However, this is not possible to state with certainty.

18. With over 70 types of disease to potentially consider, including ones that are not yet known, it is therefore difficult to predict the number of future cases of industrial disease, and thus the number of cases that are likely to be impacted by the Bill. The following costings are therefore estimated on the basis of the current number of industrial disease cases, and the number of industrial disease cases from the last five years.

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

UK Government, Scottish Government and industry data

19. The DWP CRU collects data on all personal injury claims in England, Wales and Scotland (as set out above) and in 2018/19 registered 862,356 claims. It also registered 853,259 settlements, that is, claims where a compensation payment was made.⁶ Over the last 10 years, it has registered 8,768,111 cases, of which 8,603,034 had settlements recorded. This equates to approximately 98% of cases registered with the CRU subsequently resulting in a compensation payment.

20. In order to estimate the number of Scottish industrial disease claims where a compensation payment is made, Thompsons Solicitors Scotland has provided the Non-Government Bills Unit (NGBU) with figures for the number of industrial disease cases which are dealt with by the firm each year, where a compensation payment is made. That is, cases that under the Bill's provisions would in future be liable for the recovery of NHS costs.

21. The following table lists the number of cases with compensation payments from 2014 to 2018, broken down into various categories, with a calculation of the average number of cases for each category.

Table 2: Industrial disease cases handled by Thompsons Solicitors, 2014-2018

Year	2014	2015	2016	2017	2018	Average cases per year
Asbestosis	124	131	101	112	125	119
Diffuse Pleural Thickening	28	37	43	35	48	38
Mesothelioma	155	120	142	103	115	127

⁶<https://www.gov.uk/government/publications/compensation-recovery-unit-performance-data/compensation-recovery-unit-performance-data#settlements-recorded-by-cru>

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

Asthma	3	4	2	6	9	5
Skin Disease	4	9	8	8	3	6
Vibration White Finger	19	16	19	27	37	24
Strain injury (including Carpal Tunnel and Tenosynovitis)	27	36	38	54	85	48
Other diseases (including deafness, COPD, Pneumoconiosis)	2	3	8	8	11	6
Totals	362	356	361	353	433	373

22. Thompsons Solicitors Scotland estimates that 80% of all asbestos-related cases in Scotland are brought by the firm each year, and 60% of all other industrial disease cases in Scotland (excluding deafness claims) are brought by the firm.

23. On this basis it can be estimated that there are 504 cases relating to industrial disease each year, brought by law firms in Scotland, which receive a payment for compensation.⁷

⁷ This is calculated by multiplying the average figures in the first 3 rows of Table 2 by 1.25 (on the basis they represent 80% of the total) and the average figures in the remaining rows by 1.67 (on the basis they represent 60% of the total). Note that the estimate of 504 cases may not take into account a number of deafness cases brought by other firms, for which there is no available data.

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

24. Using the above estimation that 98% of cases registered with the CRU result in a compensation payment, it can therefore be estimated that the total number of Scottish industrial disease cases that would be registered with the CRU annually, for the purposes of NHS cost-recovery, is 514.

NHS costs and the tariff system

25. Due to the complexity of calculating the cost of NHS treatment for each individual personal injury claim, the CRU operates a tariff system, with a cap that sets the maximum amount that will be claimed from a compensator. The calculation of tariff charges is based on whether the person received treatment as an out-patient (i.e. was treated at a hospital but was not admitted) or whether the person was admitted and treated as an in-patient. 'With admission' charges are calculated according to the number of days the person stayed in hospital, not including the day of discharge if the patient stayed overnight. (A 'with admission charge' may also include a 'day case' when the casualty is admitted but then released on the day of admission. This is calculated as one day and therefore in-patient treatment does not necessarily involve an overnight stay.)⁸ The cap is reached through multiples of these tariff charges. For example, 60 days of in-patient treatment would meet the capped amount.⁹ The tariffs and cap are specified in legislation, updated annually; the current amounts are set out in Table 3.¹⁰

⁸ For an example scenario of how the tariffs are calculated- see paragraph 10.5 in the guidance -

<https://www.gov.uk/government/publications/recovery-of-benefits-and-or-lump-sum-payments-and-nhs-charges-technical-guidance/recovery-of-benefits-and-lump-sum-payments-and-nhs-charges-technical-guidance#the-law---nhs-charges>

⁹ £891 x 60 = £53,460, which would be reduced (by virtue of the cap) to £53,278.

¹⁰ The Personal Injuries (NHS Charges) (Amounts) (Scotland) Amendment Regulations 2019, available at:

<http://www.legislation.gov.uk/ssi/2019/27/contents/made>. Although there is separate legislation in England and Wales, the tariff and cap amounts are identical.

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

Table 3: Tariff amounts and cap for NHS cost-recovery, 2019-20¹¹

Where the injured person was provided with NHS ambulance services for the purpose of taking him/her to a hospital for NHS treatment (for each journey)	£219
Where the injured person received NHS treatment at a hospital in respect of his/her injury but was not admitted to hospital (flat rate)	£725
Where the injured person received NHS treatment at a hospital in respect of his/her injury and was admitted to hospital (daily rate)	£891
The cap (being the maximum amount that will be claimed from a compensator) in any one case.	£53,278

26. The guidance on recovery of NHS charges states that “the charges will relate to either treatment provided with admission to hospital or treatment provided without admission to hospital, but not both. This is because outpatient treatment is superseded by inpatient treatment”.¹²

27. There is an overall cap on the amount that can be recovered in NHS charges for any one injury, which from 1 April 2019 is £53,278. The capped “tariff” amount is reviewed each financial year and has increased approximately by inflation over the last five years:

Table 4: Tariff amounts and caps for NHS cost-recovery from 2015-16 to 2019-20

Incident date (on or after)	Out-patient (daily rate)	In-patient (daily rate)	Ambulance charges	Cap
1 April 2015	£647	£796	£195	£47,569
1 April 2016	£665	£817	£201	£48,849

¹¹ http://www.legislation.gov.uk/ssi/2019/27/pdfs/ssipn_20190027_en.pdf

¹² Section 10.4: <https://www.gov.uk/government/publications/recovery-of-benefits-and-or-lump-sum-payments-and-nhs-charges-technical-guidance/recovery-of-benefits-and-lump-sum-payments-and-nhs-charges-technical-guidance#the-law---nhs-charges>

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

Incident date (on or after)	Out-patient (daily rate)	In-patient (daily rate)	Ambulance charges	Cap
1 April 2017	£678	£833	£205	£49,824
1 April 2018	£688	£846	£208	£50,561
1 April 2019	£725	£891	£219	£53,278

28. As noted above, it is impossible to estimate the cost to the NHS for treating potential future industrial disease cases. Different conditions may require different amounts of treatment and even the same condition may require vastly different levels of treatment depending on the severity of the diagnosis. For example, a diagnosis of mesothelioma may require intensive investigations leading up to the diagnosis with very few options for treatment if, when diagnosed, the disease is advanced. However, in some cases, the patient may be eligible for chemotherapy or radiotherapy which would significantly alter any cost estimate. Similarly, a diagnosis of asthma may require very little hospital treatment or may in some cases require inpatient care. A disease such as vibration white finger has no treatment available at present and therefore will likely incur very little cost. However, medical advances may mean that treatment (which could be expensive) becomes available in the future.

Costs on the Scottish Administration

Cost of administering industrial disease claims

29. The Bill will increase the number of cases that are eligible for the recovery of NHS costs. The administration costs for these additional cases will fall on the Scottish Administration.

30. Stuart McMillan's preferred option is for the Scottish Government and the UK Government to come to an agreement under which the DWP CRU administers the new NHS cost-recovery cases generated by the provisions of the Bill on behalf of the Scottish Ministers (as it does for existing NHS cost-recovery cases).

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

31. Should the Scottish and UK Governments not come to an agreement that the CRU will administer NHS cost recovery for industrial disease claims from Scotland, then Scottish Ministers will need to administer this cost-recovery separately.

32. On the basis that it is likely that Scottish Ministers would choose to administer the cases from an existing Scottish Government department or agency, it is likely that only staffing and administration costs for staff to process and investigate the cases will be required.

33. As set out above, the estimated number of industrial disease claims that would be registered annually is 514. Of these, it is estimated that 504 would require a certificate to be issued to the compensator. There is likely to be some lead-time before the annual number of claims reaches this level. Compensation claims made immediately after the commencement date (the date on which the Bill's main provisions come into force) are liable to relate to cases where all the treatment (and ambulance services) were provided before that date, or where all the harmful events that caused the industrial disease took place before that date – and so would be excluded. Over time, however, an increasing number of claims would qualify, with the numbers tapering upwards until a threshold of around 500 claims per year is reached. In the longer term, there may be a declining trend as workplace safety improves.

34. The CRU has confirmed that the total operating costs incurred in administering the NHS Injury Cost Recovery Scheme for 2017/18 were £2.6m.¹³ This works out to £3 per claim, on the basis of 853,615 registered claims UK-wide in 2017/18. On that basis, an additional 514 new claims to process, to cover the number that may be included under the Bill, would result in an increased cost of around £1,500 per annum, assuming these new claims could be processed as efficiently as typical existing claims. It should be noted that industrial disease cases may be significantly more complex to process because of the need to separate out pre-

¹³ Information provided to NGBU by the CRU subject to the following caveat: "Please note that information provided is derived from operational processes and systems designed solely for the purposes of helping the Department to manage its business. It has therefore not been subjected to the rigorous quality assurance checks applied to published official statistics."

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

commencement and post-commencement exposure to hazards, in order to determine the amount eligible for NHS cost-recovery.

35. The economies of scale that benefit the DWP CRU mean that it is likely that a Scottish CRU would require more staff than an annual cost of £1,500 would suggest. The CRU has not provided information regarding how many staff it employs, or how many claims are processed by each member of staff. It is therefore difficult to estimate how many staff would be required to process this number of claims and issue certificates to compensators.

36. As a comparison, Social Security Scotland's annual report for the seven months to 31 March 2019¹⁴ states that it employed the full-time equivalent of 390 members of staff.¹⁵ It processed 153,380 Carer's Allowance Supplement payments to 83,000 carers and 19,465 applications for Best Start Grant: Pregnancy and Baby Payments, of which 11,505 were authorised.¹⁶ This would lead to an average of 443 Carer's Allowance payments and Best Start Grant applications per member of staff. The median remuneration of the workforce for Social Security Scotland was £21,793.¹⁷

37. On this basis, an estimated increase in costs for a similar agency or Scottish Government department to process an additional 514 claims equates to approximately one new member of staff at a cost of around £22,000. However, as noted above, industrial disease cases are liable to be significantly more complex to process because of the need to separate

¹⁴ Social Security Scotland was established on 1 September 2018. Its annual report and accounts to 31 March 2019 are available here-
<https://dgxmvz0tqkndr.cloudfront.net/production/images/general/Social-Security-Scotland-Annual-Report-and-Accounts.pdf>

¹⁵ Page 37, annual report and accounts -
<https://dgxmvz0tqkndr.cloudfront.net/production/images/general/Social-Security-Scotland-Annual-Report-and-Accounts.pdf>

¹⁶ Pages 15 and 16, annual report and accounts -
<https://dgxmvz0tqkndr.cloudfront.net/production/images/general/Social-Security-Scotland-Annual-Report-and-Accounts.pdf>

¹⁷ Page 40,
<https://dgxmvz0tqkndr.cloudfront.net/production/images/general/Social-Security-Scotland-Annual-Report-and-Accounts.pdf>

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

out pre-commencement and post-commencement exposure to hazards, in order to determine the amount eligible for NHS cost-recovery. It is therefore possible that a small team of staff will be required. If, for example, three (full-time equivalent) staff were required, then based on the median salary for Social Security Scotland, this would lead to a likely increase in costs of around £66,000.

38. Should the Scottish Ministers come to an agreement with the UK Government that the DWP CRU will be responsible for the cost-recovery of NHS costs for industrial disease, then it is likely that Scottish Ministers would need to reimburse the DWP (under the agreement) for the additional processing costs involved, as estimated above.

Cost of reviews and appeals

39. The DWP guidance notes that “If you think that the information on the Certificate of NHS charges is wrong, you can ask CRU to look at the case again by way of a review. A review request should be made in writing and must provide the reasons why you think the Certificate of NHS charges is wrong. Any relevant evidence that is thought to be helpful should also be included with the review request.”¹⁸

40. If the compensator still believes that the certificate is wrong, after a review, it can make an appeal directly to the First-tier Tribunal under Her Majesty’s Courts and Tribunals Service (HMCTS).¹⁹

41. Should the industrial disease claims continue to be administered by the DWP CRU, then Scottish Ministers may be required to pay DWP and

¹⁸ Section 10.10 <https://www.gov.uk/government/publications/recovery-of-benefits-and-or-lump-sum-payments-and-nhs-charges-technical-guidance/recovery-of-benefits-and-lump-sum-payments-and-nhs-charges-technical-guidance#the-law---nhs-charges>

¹⁹ Section 158 of the Health and Social Care (Community Health and Standards) Act 2003 - <http://www.legislation.gov.uk/ukpga/2003/43/part/3> and Section 10.11 of the guidance - <https://www.gov.uk/government/publications/recovery-of-benefits-and-or-lump-sum-payments-and-nhs-charges-technical-guidance/recovery-of-benefits-and-lump-sum-payments-and-nhs-charges-technical-guidance#the-law---nhs-charges>

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

HMCTS for any increased costs due to reviews and appeals. Should Scottish Ministers choose to administer the NHS cost-recovery for industrial disease claims from a Scottish Government agency or department, the increased costs for reviews will fall directly on the Scottish Government, and the increased cost of appeals to HMCTS may require to be reimbursed.

42. There is no available data for the cost of reviews and appeals. However, the average number of appeals in the last five years to the Social Security and Child Support (SSCS) Tribunal, for decisions made by the Compensation Recovery Unit, is 55 appeals per year.²⁰ For the most recent year with data available (2018/19), there were 49 appeals made, out of 862,356 claims registered to the CRU that year.²¹ On this basis, it is anticipated that the number of reviews and appeals from an estimated 504 industrial disease cases each year is likely to be very low.

Cost of enforcing payments

43. Section 155 of the 2003 Act enables the Scottish Ministers to recover NHS charges by court action where the person to whom a certificate has been issued fails to pay it. The Scottish Government has confirmed (on the basis of information provided by the DWP) that “since 2017, there have been 8 instances of court action to pursue debt from compensators on behalf of the NHS in Scotland”.²² On this basis, it seems unlikely there would be more than one or two additional such instances per year as a result of the Bill. The law usually enables someone owed money as a result

²⁰ Tribunal Statistics Quarterly: July to September 2019, published by the Ministry of Justice <https://www.gov.uk/government/statistics/tribunal-statistics-quarterly-july-to-september-2019> with data sets available in Tab SSCS_1 of following table - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/851598/Main_Tables_Q2_2019_20.ods Number of receipts for appeals based on CRU decisions for the last five years are: (65 + 61 + 50 + 50 + 49) / 5 = 55.

²¹ Compensation recovery unit performance data- <https://www.gov.uk/government/publications/compensation-recovery-unit-performance-data/compensation-recovery-unit-performance-data#settlements-recorded-by-cru>

²² Written Answer to Question S5W-27100, answered on 6 February 2020.

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

of a court order to recover the costs of enforcing payment from the debtor. This means that debt recovery action would be cost-neutral in the vast majority of cases.

44. It is likely that the sum recovered in each case would include the cost incurred in pursuing court action, making each instance effectively cost-neutral.

Costs on local authorities

45. There are no expected direct costs on local authorities.

Costs on other bodies, individuals and businesses

46. There will be an additional cost to compensators, who will in future be liable to repay NHS charges in respect of industrial disease. As noted above, it is impossible to estimate the amount of NHS costs that will require to be paid for any individual case. However, the most a compensator would be required to pay in any case would be limited to the £53,278 cap.

47. In the large majority of cases, it is expected that compensators will recover these additional costs from their insurers. (The Bill has no retrospective effect and includes a lead-time of one year before commencement, and it is anticipated that insurance companies will use this period to re-calculate premiums and that industrial employers will be prepared to pay those higher premiums in order to protect themselves from the NHS-charges element of any future claims.)

48. It is assumed that insurance companies will have to carry out further actuarial calculations, in order to incorporate the recovery of NHS charges into their costings for personal injury claims. However, it is expected that the cost of carrying out these additional calculations will be fully recovered as part of the anticipated increase in premiums they charge to industrial employers.

49. As already noted, it is anticipated that insurance premiums for industrial employers will increase. However, one of the aims of the Bill is to incentivise businesses to ensure safe working environments. A decrease in industrial disease from hazardous working environments may, in the long term, lead to fewer claims being made (and such claims as are made being for lower amounts) and hence to lower insurance premiums.

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

Savings

50. The Bill will result in the NHS being able to recover costs for industrial disease cases, where a compensation payment is made to the patient. The most that NHS Health Boards will be able to recover per patient will be the amount of the cap (i.e. around £53,000 at 2019 prices). As noted above, the actual amount likely to be recovered in a typical case is impossible to estimate, given the variations between cases in relation to the severity of the disease and the amount of treatment required.

51. In the early years after the Bill comes into force, it is likely that in most claims made the amount of NHS charges recovered will be small. This is because, given the long latency periods of many industrial diseases, a large proportion of the injured person's exposure to industrial hazards will have occurred pre-commencement and so be discounted. It may be years or even decades before the majority of cases are such that all of the exposure will have occurred post-commencement and that, as a result, all of the cost of NHS treatment can be recovered.

This document relates to the Liability for NHS Charges (Treatment of Industrial Disease) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 9 March 2020

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

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