



RESPONSE
by
THE FACULTY OF ADVOCATES

in respect of the

**LIABILITY FOR NHS CHARGES (TREATMENT OF INDUSTRIAL DISEASE)
SCOTLAND BILL**

The Faculty of Advocates has been invited to comment upon the Bill and to specifically consider the following questions:

1. How will the Bill lead to improved working conditions, and health and safety practices, in workplaces?
2. How will the Bill help prevent industrial diseases in the future?
3. What impacts will the Bill have on the following? i) Individuals ii) NHS boards; iii) Workplaces; and iv) Insurance

In respect of question 1

The Faculty does not consider that the Bill will necessarily lead to improved working conditions and health and safety practices in workplaces. Those outcomes are already incentivised through awards of damages for personal injury to employees and criminal sanctions for breaches of statutory duty under the Health & Safety at Work Act 1974. There is no reason to believe that the Bill will have any additional incentivising effect.

In respect of question 2

The Faculty do not consider the Bill will necessarily lead to the prevention of employees developing or contracting industrial diseases in the future. Similarly to the response in respect of question 1, awards of damages for personal injury and criminal sanctions for breaches of statutory duty already exist to achieve the aim of preventing employees developing or contracting industrial diseases. There is no reason to believe that the Bill will have any additional benefit in this regard.

In respect of question 3

i) Employees

Assuming “*individuals*” refers to employees, the Faculty refers to our responses in respect of questions 1 and 2. There is no reason to believe the Bill will have any additional benefit to employees beyond what is already achieved through the awards of damages for personal injury and criminal sanction for breaches of statutory duty by employers.

ii) NHS Boards

The Faculty assume the Bill will reduce to some extent the financial burden on the NHS of treating industrial diseases. We are not however in a position to quantify the extent to which it will have that effect.

iii) Workplaces

Reference is made to the answers at 1, 2 and 3(i). There is no reason to believe the Bill will have any additional benefit to improving the safety of workplaces beyond what is already achieved through the awards of damages for personal injury and criminal sanction for breaches of statutory duty by employers.

iv) Insurance

The Bill would obviously have the effect of increasing the financial burden on insurance companies. Similarly to question 3(ii), we are not in a position to quantify the extent to which it will have that effect.

Beyond that, the Faculty do not consider we can meaningfully respond to the three specific questions posed and do not find it necessary to make any further comment with regard to the substance or practical effect of the Bill.