

Justice Committee

Damages (Asbestos-related Conditions) (Scotland) Bill

Written submission from the Scottish Trades Union Congress

1. Introduction

- 1.1. The STUC is Scotland's Trade Union Centre. Its purpose is to coordinate, develop and articulate the views and policies of the Trade Union Movement in Scotland reflecting the aspirations of trade unionists as workers and citizens.
- 1.2. The STUC represents over 644,000 working people and their families throughout Scotland. It speaks for trade union members in and out of work, in the community and in the workplace. Our affiliated organisations have interests in all sectors of the economy. Promoting safer and healthier workplaces is central to the STUC's mission as is fighting for justice for those who have suffered injury or disease as a result of negligent employers.
- 1.3. The STUC very much welcomes the introduction of the Damages (Asbestos Related Conditions) (Scotland) Bill by the Scottish Parliament and welcomes the opportunity to make this written submission to the Justice 1 Committee.

2. Background

- 2.1. The STUC have supported asbestos groups in seeking these changes and have made previous representations to the Scottish Parliament. We supported the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill in the last session of the Parliament and welcomes past and present efforts by the parliament to tackle injustice for asbestos victims.
- 2.2. As an organisation the STUC recognises that exposure to asbestos in the workplace can result in psychological injuries as well as physical. We therefore welcome this Bill from the Scottish Government as we believe that this will right the injustice suffered by asbestos victims as a result of the House of Lords judgement in *Johnstone v NEI International Combustion Ltd*.

3. Origins of the Bill

- 3.1. Diagnosis of any asbestos related condition has a devastating effect on the victim and their families, irrespective if the injury or disease displays physical symptoms or not. The House of Lords judgement referred to above does not take into account the anxiety, stress and mental anguish that such a diagnosis places on the victims, many of whom describe the diagnosis as a life sentence,

not knowing when, or if, they may develop a fatal asbestos related condition.

- 3.2. For some families there is more than one diagnosis of pleural plaques, a reflection on the past industrial age where family members followed each other in to shipyards, insulation and other heavy industries where the use of asbestos was widespread and the dangers well known by employers. In such cases some have developed mesothelioma, heightening the anxiety amongst other family members. Similarly, some sufferers witness former colleagues develop terminal diseases and wonder when it will be their turn. It is inconceivable that stress and anxiety to this extent may not be seen as worthy of compensation.
- 3.3. While recognising that pleural plaques does not cause mesothelioma or asbestos related lung cancer it does result of an increased risk of developing fatal conditions. Therefore we believe that it is right that all non-malignant asbestos related conditions are compensatable and that employers and their insurance who knew of the risks cannot walk away from their liability for negligent exposure to asbestos fibres.
- 3.4. The efforts of the insurance industry in challenging the decision that led to the House of Lords judgement ruling that victims of pleural plaques were not compensatable was the latest in a number of attempts to deny asbestos victims, and their families their rightful compensation.
- 3.5. The STUC remains concerned that insurers continue to challenge cases of asbestos related disease. The dangers of asbestos exposure were well known and documented throughout the last century but insurers continued to write policies and collect premiums from employers.
- 3.6. Therefore the STUC welcomes the Government proposals to ensure that the legislation be retrospective and agrees that this is the only way to ensure that the House of Lords judgement is completely overruled and does not leave any victims denied compensation.

4. Alternative Approaches

- 4.1. The STUC support the view of the Scottish Government that sufferers should be properly compensated and provided with clear information and support in relation to their condition, a role asbestos support groups carry out extremely effectively.
- 4.2. We disagree with the view that education of the condition should be the only approach and see this as another attempt by the industry and insurers to deny victims compensation,

- 4.3. We would have grave concerns of the Scottish Government took no action and we do not see this as an option.