

## EXPLANATORY MEMORANDUM TO

### THE VACCINE DAMAGE PAYMENTS (SPECIFIED DISEASE) ORDER 2016

2016 No. 454

#### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

#### 2. Purpose of the instrument

- 2.1 The Vaccine Damage Payments Act 1979 provides for payments to be made to individuals who are severely disabled as a result of vaccination against diseases specified in the Act. This Order adds Meningococcal Group W and Meningococcal Group B to the list of specified diseases to which the Vaccine Damage Payments Act 1979 applies.

#### 3. Matters of special interest to Parliament

##### *Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

##### *Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

#### 4. Legislative Context

- 4.1 The Vaccine Damage Payments Act 1979 requires the Secretary of State to make a payment if he is satisfied that a person is, or was immediately before his death, severely disabled as a result of vaccination against any of the diseases to which the Act applies. This is subject to conditions in the Act which include making a claim after a vaccinated person's second birthday, but either before their twenty first birthday, or within six years of the date on which the vaccination was given whichever is later.
- 4.2 The Act is primarily intended to cover those diseases that are or have been vaccinated against through the routine childhood immunisation programme. The Act does not cover vaccination for reasons of occupational health or travel or those vaccines given only to adults.
- 4.3 A list of specified diseases to which the Act applies and has applied can be found in paragraph 7.2 of this Explanatory Memorandum.
- 4.4 The Vaccine Damage Payments Act 1979 enables the Secretary of State to add to the list of specified diseases in the Act by order made by statutory instrument. This Order adds Meningococcal Group W and Meningococcal Group B to the list of specified diseases to which the Act applies.

## **5. Extent and Territorial Application**

5.1 This instrument extends to all of the United Kingdom and to the Isle of Man.

5.2 This instrument applies to all of the United Kingdom and the Isle of Man.

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

7.1 The Vaccine Damage Payments Act 1979 provides for a lump sum payment to be made to those who have been severely disabled by vaccination against specified diseases, in order to ease the burdens associated with such disability.

7.2 The Act is focused on diseases preventable through vaccination offered as part of the routine childhood immunisation programmes that are administered by the United Kingdom Government, the Isle of Man and the Devolved Administrations. The specified diseases to which the Act currently applies are:

- Diphtheria
- Measles
- Pertussis (Whooping Cough)
- Poliomyelitis
- Rubella (German measles)
- Smallpox (up to August 1971)
- Tetanus
- Tuberculosis (TB)
- Haemophilus influenzae type b infection (HIB)\*
- Human papillomavirus (HPV)\*
- Influenza, other than influenza caused by a pandemic influenza virus\*
- Meningococcal Group C (Meningitis C)\*
- Mumps\*
- Pandemic influenza A (H1N1) 2009 (swine flu) – between 10 October 2009 and 31 August 2010\*
- Pneumococcal infection\*
- Rotavirus\*

\* Indicates disease added by order

7.3 From 1 August 2015 and 1 September 2015, vaccines to protect adolescents and young adults against Meningococcal Group W and infants against Meningococcal Group B respectively were introduced into the childhood immunisation schedule in England, Wales, Northern Ireland, Scotland, and on the Isle of Man.

7.4 Meningococcal disease describes infections caused by the bacterium *Neisseria meningitidis* (also termed meningococcus). It carries a high mortality rate if untreated but is a vaccine-preventable disease.

- 7.5 This order adds Meningococcal Group W and Meningococcal Group B to the list of specified diseases to which the Vaccine Damage Payments Act 1979 applies.
- 7.6 The Act makes it a condition of entitlement that the vaccination was carried out either at a time when the person to whom it was given was under the age of eighteen or at the time of an outbreak within the United Kingdom or on the Isle of Man. This will be the position in relation to Meningococcal Group B.
- 7.7 In relation to Meningococcal Group W, the condition of entitlement that the vaccination was carried out when the person to whom it was given was under the age of eighteen will be modified, such that the person to whom this vaccination was given was under the age of twenty six at the time the vaccination was carried out. The reason for this change is that vaccination against Meningococcal Group W is also recommended for first time university and college entrants who have missed the adolescent booster. There is no change to the alternative condition of entitlement that the vaccination was carried out at the time of an outbreak within the United Kingdom or on the Isle of Man.

#### ***Consolidation***

- 7.8 This is not required.

### **8. Consultation outcome**

- 8.1 A consultation exercise was not undertaken for this instrument. This is because no substantive changes have been made to the Vaccine Damage Payment scheme. This instrument adds two more diseases to those already listed in the Act, because vaccination against these two diseases has been added to the national immunisation programme

### **9. Guidance**

- 9.1 This instrument adds two additional diseases to those already covered by the Vaccine Damage Payments Act 1979. The Department of Health and the Department for Work and Pensions will communicate this change through their primary communication channels.

### **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.
- 10.4 The General Public Sector Equality Duty imposes positive obligations to promote equality of opportunity and to foster good relations between those who are likely to suffer discrimination and those who are not (in addition to eliminating discrimination, harassment and victimisation). We have not identified any relevant equalities issues, and no Equality Impact Assessment has been prepared for this instrument.
- 10.5 Consideration has also been given to relevant duties of the Secretary of State under the NHS Act 2006. Again, there are no specific issues.

### **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

**12. Monitoring & review**

12.1 The Department of Health will ensure the regulations will be subject to timely review.

**13. Contact**

13.1 Michelle Parkinson at the Department of Health Telephone: 020 7210 5654 or email: [ic-mb@dh.gsi.gov.uk](mailto:ic-mb@dh.gsi.gov.uk) can answer any queries regarding the instrument.