

EXPLANATORY MEMORANDUM TO

THE VACCINE DAMAGE PAYMENTS (SPECIFIED DISEASE) ORDER 2020

2020 No. 1411

1. Introduction

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

2. Purpose of the instrument

- 2.1 The Vaccine Damage Payment Act 1979 (“the Act”) provides payments to be made to individuals who are severely disabled as a result of vaccination against diseases specified in the Act. This Order adds Covid-19 to the list of specified diseases to which the Act applies. This Order also extends the protection of the Act to persons who will be vaccinated against Covid-19 at a time when they are 18 years or older.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 This instrument extends to all of the United Kingdom and to the Isle of Man.
4.2 This instrument applies to all of the United Kingdom and the Isle of Man.

5. European Convention on Human Rights

- 5.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The Vaccine Damage Payments Act 1979 (“the Act”) 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 before their twenty first birthday, or within six years of the date on which the vaccination was given, whichever is later.
6.2 A list of specified diseases to which the Act applies and has applied can be found in paragraph 7.2 of this explanatory memorandum.

6.3 The Act enables the Secretary of State to add diseases to the list of specified diseases in the Act by order made by statutory instrument. This Order adds Covid-19 to the list of specific diseases to which the Act applies.

7. Policy background

What is being done and why?

7.1 The Act provides for a lump sum payment to be made to people 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 primarily 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 to:

- 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*
- Meningococcal Group W *
- Meningococcal Group B *

* Indicates disease added by order.

7.3 Covid-19 is a disease caused by the SARS-CoV-2 virus, which can cause severe respiratory symptoms. It can carry a high mortality rate if untreated, but vaccines are being trialled, with the aim of being rolled out nationally as soon as safety standards are met.

7.4 This instrument adds Covid-19 to the list of specified diseases to which the Act applies.

7.5 This instrument amends the Act in relation to Covid-19 so that the person who receives a Covid-19 vaccination does not have to be under 18 at the time of receiving the vaccine to be eligible to make a claim under the Act. This instrument also amends

the Act in relation to Covid-19 vaccine recipients, to remove the requirement for there to have been an outbreak of the disease within the United Kingdom or the Isle of Man at that time of vaccination, to be eligible under the Act.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 This instrument does not consolidate any legislation.

10. Consultation outcome

10.1 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 one more disease to those already listed in the Act.

11. Guidance

11.1 The Government has published guidance in relation to Covid-19 at www.gov.uk/coronavirus.

12. Impact

12.1 There is no significant impact on business, charities or voluntary bodies.

12.2 There is no significant impact on the public sector.

12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

12.4 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.

12.5 Consideration has also been given to relevant duties of the Secretary of State under the NHS Act 2006. Again, there are no specific issues.

13. Regulating small business

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

14. Monitoring & review

14.1 The Department of Health and Social Care will ensure the regulations will be subject to timely review.

15. Contact

15.1 Immunisations Policy Team at the Department of Health and Social Care Email: Immunisation-MB@dhsc.gov.uk can be contacted with any queries regarding the instrument.

- 15.2 Morwenna Carrington, Deputy Director for Health Protection Policy and UK Health Security at the Department of Health and Social Care, can confirm that this explanatory memorandum meets the required standard.
- 15.3 Nadhim Zahawi MP, Parliamentary Under Secretary of State for COVID Vaccine Deployment at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.