

**EXPLANATORY MEMORANDUM TO**  
**THE VACCINE DAMAGE PAYMENTS (SPECIFIED DISEASE) (AMENDMENT)**  
**ORDER 2021**

**2021 No. 508**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care (“DHSC”) 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 has the effect that the protection of the Act extends to persons vaccinated against influenza (other than influenza caused by a pandemic influenza virus) (“seasonal influenza”) at a time when they were 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 None.

**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 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 and to specify modifications to

conditions of entitlement to claim under the Act. The Vaccine Damage Payment (Specified Disease) Order 2015 (“the 2015 Order”) added seasonal influenza to the list of diseases to which the Act applies.

- 6.4 This instrument amends the 2015 Order. It modifies the conditions of entitlement in section 2(1)(b) of the Act, so that a person who was aged eighteen or over at the time the vaccination was carried out may now be entitled to a payment in respect of damage resulting from a vaccination against seasonal influenza. It also modifies the condition of entitlement in section 2(1)(a)(ii) of the Act for those persons, so that the vaccination must have been carried out on or after 24th May 2015. This reflects the fact that claims under the Act must be brought within 6 years.
- 6.5 It maintains the existing modification of the condition of entitlement made by the 2015 Order in relation to a vaccinated person who was aged under eighteen at the time of the vaccination, namely that it must have been carried out on or after 1st September 2013.

## **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:
- i. Diphtheria
  - ii. Measles
  - iii. Pertussis (Whooping Cough)
  - iv. Poliomyelitis
  - v. Rubella (German measles)
  - vi. Smallpox (up to August 1971)
  - vii. Tetanus
  - viii. Tuberculosis (TB)
  - ix. Haemophilus influenzae type b infection (HIB)\*
  - x. Human papillomavirus (HPV)\*
  - xi. Influenza, other than influenza caused by a pandemic influenza virus (Seasonal flu)\*
  - xii. Meningococcal Group C (Meningitis C)\*
  - xiii. Mumps\*
  - xiv. Pandemic influenza A (H1N1) 2009 (swine flu) – between 10 October 2009 and 31 August 2010
  - xv. Pneumococcal infection\*
  - xvi. Rotavirus\*
  - xvii. Meningococcal Group W \*
  - xviii. Meningococcal Group B \*

xix. COVID-19\*

\* Indicates disease added by order.

- 7.3 The effect of this instrument is that the Act now provides that, in relation to vaccination against seasonal influenza, it is not a condition of entitlement to make a claim that the person to whom the vaccination was given was under 18 at the time.

**8. European Union (Withdrawal) Act/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.

**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 modifies the conditions of entitlement for one of the diseases already listed in the Act.

**11. Guidance**

- 11.1 The Government has published guidance in relation to making a Vaccine Damage Payments claim at <https://www.gov.uk/vaccine-damage-payment>.

**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](http://legislation.gov.uk) website.

**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 approach to monitoring of this legislation is that 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](mailto:Immunisation-MB@dhsc.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Will Jones, 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, Parliamentary Under-Secretary of State (Minister for Covid Vaccine Deployment) at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.