EXPLANATORY MEMORANDUM TO

THE GREATER LONDON AUTHORITY ACT 1999 (AMENDMENT) ORDER 2012

2012 No. [XXXX]

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

The purpose of this order is to enable the Greater London Authority (GLA) to spend money on providing services or facilities promoting improvements in, or protecting, public health in Greater London.[1] This will facilitate a more effective pan-London approach to public health.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The GLA was established by the *Greater London Authority Act 1999* (the Act).

4.2 The Health and Social Care Bill will, subject to Parliamentary approval, give unitary and upper tier local authorities a new duty to take appropriate steps to improve the health of their populations. The Secretary of State for Health may also require local authorities to take certain other steps with regard to public health through regulations.

4.3 Following the announcement of the proposed return of public health responsibilities to local government, the GLA and the London boroughs set up a London Health Improvement Board on a non-statutory footing to develop a coherent pan-London approach to public health.

4.4 The Government will bring forward primary legislation when Parliamentary time allows to put the London Health Improvement Board on a statutory footing. In the meantime, this order is required to allow the London Health Improvement Board to function more effectively by enabling the GLA to spend money on activities to promote improvements in, or to protect, public health.

4.5 The GLA is currently restricted by section 31(3)(d) of the Act from spending money on providing any health services that can be provided by a local authority or public body.

[1] Greater London means the London Boroughs, the City of London and the Inner and Middle Temple.

4.6 This order is made under section 31(9) of the Act, which provides that a Secretary of State may make an order to remove or restrict any prohibitions or limitations imposed by section 31. The order will insert a new subsection 31(5A) into the Act, which will allow the GLA to spend money on providing services or facilities promoting improvements in, or protecting, public health. This new power will be exercised in accordance with the GLA's principal purposes set out in section 30(2) of the Act.

4.7 With this new power, the GLA will be able to spend funding raised from sponsors on public health improvement or protection activities and, until April 2013, work with Primary Care Trusts and the Strategic Health Authority in London if the GLA is commissioned to deliver public health services on their behalf. From 2013, the GLA, if commissioned, will work with London Boroughs to deliver public health services on their behalf.

4.8 This order is the first to be laid under section 31(9) of the Act to amend that section of the Act.

5. Territorial Extent and Application

5.1 This instrument only applies to the area covered by the Greater London Assembly.

6. European Convention on Human Rights

The Secretary of State for Health has made the following statement regarding Human Rights:

In my view the provisions of The Greater London Authority Act (Amendment) Order 2012 are compatible with the Convention rights.

7. Policy background

7.1 The policy objective of section 31(3)(d) of the Act was to impose restrictions on the GLA's spending to prevent duplication between its activities and those of other public bodies in London. These restrictions include spending money on providing health services, including health improvement activities or public health protection, which can be provided by a local authority or public body.

7.2 With the return of public health responsibilities to local government, the Government now seeks to update the Act to enable the GLA, as the authority for Greater London, to play a full role in pan-London public health activities. This order allows the GLA to work with London Boroughs or NHS London, or on its own to improve and protect the public health of Londoners.

7.3 The Department of Health explored taking no action to update the Act, but this would restrict rather than enhance the role of the GLA within the local government of London and so was discounted as an option.

8. Consultation outcome

8.1 The order has been requested by the Greater London Assembly and the London Boroughs to enable them to deepen their pan-London co-operation on public health.

8.2 There has not been a formal consultation on this order. However, the GLA and the London Boroughs support this measure. Furthermore, the Department engaged with various London equality groups in the Autumn of 2011. In response to this engagement, written responses were received from a number of groups including Age UK London, Platform 51, Race Equality Foundation, and Stonewall, supporting a pan-London approach to health improvement.

9. Guidance

9.1 The Department has no immediate plans to issue guidance.

10. Impact

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

10.2 The impact on the public sector is very limited as this only applies to the GLA and the GLA can freely decide whether to use its new legal power or not.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This order has met its objective if the GLA becomes able to contribute to improving the health of Londoners. The Department will engage with the GLA via the GLA's statutory health advisor who is currently Regional Director for Public Health for London to encourage the GLA to use their new powers. If the role currently known as Regional Director of Public Health for London ceases to exist in future, another civil servant with the relevant experience and areas of responsibility will be appointed to be the GLA's health advisor.

12.2 This instrument will be reviewed in connection with any primary legislation to put the London Health Improvement Board on a statutory footing.

13. Contact

Vibeke Hagelskjaer at the Department of Health, Tel: 020 797 24769 or email: Vibeke.Hagelskjaer@dh.gsi.gov.uk can answer any queries regarding the instrument.