EXPLANATORY MEMORANDUM TO

THE VACCINE DAMAGE PAYMENTS (SPECIFIED DISEASE) ORDER 2009

2009 No. 2516

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order adds influenza caused by the pandemic influenza A (H1N1) 2009 virus as a disease to which the Vaccine Damage Payments Act 1979 applies and extends the Act to persons who were vaccinated against influenza caused by the pandemic influenza A (H1N1) 2009 virus at a time when they were 18 years or older.

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

3.1 None.

4. Legislative Context

4.1 The Vaccine Damage Payments Act 1979 requires the Secretary of State to make a payment (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) 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. A list of specified diseases to which the Act applies can be found in paragraph 7.2 of this Explanatory Memorandum.

4.2 The Vaccine Damage Payments Act also enables the Secretary of State to add diseases to the list of specified diseases in the Act by order made by statutory instrument. The Chief Medical Officer announced on the 13 August 2009 that Health Ministers had accepted the advice from the Joint Committee on Vaccination and Immunisation on priority groups for vaccination against influenza caused by the pandemic influenza A (H1N1) 2009 virus. The vaccination programme would start once vaccines had been licensed by the European Medicines Agency and stocks had been distributed around the UK, and it was expected that the earliest a vaccination programme would commence was mid-October. This order therefore adds influenza caused by the pandemic influenza A (H1N1) 2009 virus to the list of specified diseases to which the Act applies, with effect from 10 October 2009, and extends the Act to those vaccinated against this influenza virus at a time when they were 18 years or older.

5. Territorial Extent and Application

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

5.2 Officials on behalf of the government of the Isle of Man have been consulted and consented to this instrument.

6. European Convention on Human Rights

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 lump sum payments to ease the present and future burdens of those who have been severely disabled by vaccinations against specified diseases.

7.2 The specified diseases to which the Act applies are the same as those that are, or have been, vaccinated against as part of the routine childhood immunisation programmes that are administered by the United Kingdom Government and the Devolved Administrations. These are:

- *Diphtheria*
- Tetanus
- Pertussis (Whooping Cough)
- Poliomyelitis
- Measles
- Mumps
- Rubella (German measles)
- Tuberculosis (TB)
- Smallpox (up to August 1971)
- Haemophilus influenza type b infection (HIB)
- Meningococcal Group C (Meningitis C)
- Pneumococcal infection
- Human papillomavirus

(Mumps, Haemophilus influenza type b infection, Meningococcal Group C, pneumococcal infection and human papillomavirus have previously been added to the list of diseases in the Vaccine Damage Payments Act 1979, by separate Orders.)

7.3 A programme to vaccinate the population against H1N1 influenza virus is planned from October 2009.

7.4 There are no plans to consolidate these regulations. Changes to the routine childhood immunisation programme are made on the recommendation of the Joint Committee on Vaccination and Immunisation. The Vaccine Damage Payments Act covers those diseases that are, or have been, vaccinated against as part of the routine childhood immunisation programme. Influenza caused by the pandemic influenza A (H1N1) 2009 is being added to the Vaccine Damage Payments Act at the request of the Department of Health as part of their swine flu vaccination strategy.

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 Payments Act. This instrument simply adds another disease to those already listed in the Act or subsequently specified, as requested by the Department of Health.

9. Guidance

9.1 This instrument does not introduce any obligation but simply adds another disease to those already listed in the Act. The Department for Work and Pensions will communicate this change through its usual channels.

10. Impact

10.1 There is no impact on the private and voluntary sectors.

10.2 The impact on the public sector is negligible.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This change to the Act in being introduced to cover the planned programme to vaccinate the population against pandemic influenza A (H1N1) 2009 virus. The Department of Health and the Department for Work and Pensions will ensure the regulations will be subject to timely review.

13. Contact

Debbie Owens at the Department for Work and Pensions Tel: 0207 449 5295 or email: Debbie.Owens@dwp.gsi.gov.uk can answer any queries regarding the instrument.