

COVID-19 VACCINE DAMAGE BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Covid-19 Vaccine Damage Bill introduced in the House of Commons on 21 October 2024 (Bill 58)

Overview of the Bill

1. The Covid-19 Vaccine Damage Bill seeks to require the Secretary of State to establish an independent review of disablement caused by Covid-19 vaccinations and the adequacy of the compensation offered to persons so disabled; and for connected purposes.
2. In considering the adequacy of the compensation offered, the Bill requires the independent review to consider matters including:
 - a. the criteria for eligibility;
 - b. the impact of time limits on claims for compensation under the Limitation Act 1980 and whether those limits should be increased; and
 - c. the merits of establishing a compensation scheme without the need to establish fault and the terms of such a scheme.

Policy background

1. On 31 December 2020, the provisions of the Vaccine Damage Payments Act 1979 were extended to include Covid-19 vaccinations. This enabled those who suffered vaccine damage causing at least 60% disablement to receive an ex gratia lump sum payment of £120,000.
2. The current level of the ex gratia payment was introduced in 2007 and has not been revisited since (for example, it has not been increased by inflation or to reflect the greater cost of living and/or care).
3. The 60% disablement threshold does not replicate the similar threshold for the Industrial Injuries Disablement Benefit which attaches at a lower disablement threshold (normally 14%, with a sliding scale for compensation). Disablement reviews rely upon guidance set out in statutory provisions for the purposes of the Industrial Injuries Disablement Benefit Scheme which account only for specific physical injuries, and not psychological or autoimmune injuries.
4. Applicants to the Vaccine Damage Payment Scheme must also meet a causation threshold determined on the balance of probabilities. As of 25 September 2024, 15,804 claims have been received by the Vaccine Damage Payment Scheme relating to ill-effects from Covid-19 vaccinations. Of these, half have been notified of an outcome, 188 have been awarded a Vaccine Damage Payment and just under half (7,748) have been rejected even though, in some cases, causation has been accepted. 579 claims have been successful in establishing that the death or injury has been caused by a Covid-19 vaccine. 391 of these otherwise successful claims have been denied financial redress on the ground that, although the vaccine caused their disability, they were not deemed to be “severely disabled” for the purposes of the 60% disability threshold. 996 claims have been outstanding for over 12 months; of those, 283 claims were received more than 18 months ago.
5. Applicants to the Vaccine Damage Payment Scheme may also have valid civil claims to seek compensation for their injury or bereavement against, for example, vaccine manufacturers for

the harms alleged to have been suffered. Applicants are advised, however, to seek and await the outcome of their Vaccine Damage Payment Scheme application before issuing such a civil claim, not least because they may already be able to establish causation if they are successful in their Vaccine Damage Payment Scheme application. The limitation period for such civil claims is generally three years. Owing to the above delays in processing Vaccine Damage Payment Scheme claims, and the length of time which has passed since Covid-19 vaccines were first administered, potential claimants are at risk of losing the ability to make a valid civil claim by virtue of the applicable limitation periods.

Commentary on provisions of the Bill

Clause 1: Independent review of Covid-19 vaccine damage

6. Subsection (1) imposes a statutory duty on the Secretary of State for Health and Social Care to appoint a current or former High Court judge to lead an independent review of disablement caused by Covid-19 vaccinations administered in the United Kingdom within 30 days after the Bill is passed as an Act of Parliament.
7. Subsections (2) and (3) set out that the above independent review must consider:
 - a. the rates and extent of disablement caused by each type of Covid-19 vaccination offered in the United Kingdom;
 - b. the effectiveness of Medicines and Healthcare products Regulatory Agency monitoring of such side effects, and National Health Service and Government responses to such monitoring;
 - c. the adequacy of compensation offered to persons so disabled, including:
 - i. the criteria for eligibility;
 - ii. the impact of time limits on claims for compensation under the Limitation Act 1980 and whether those limits should be increased;
 - iii. the merits of establishing a compensation scheme without the need to establish fault and the terms of such a scheme;
 - d. the efficacy of the Vaccine Damage Payments Act 1979 and regulations made under it, including, in particular, the 60% disablement threshold under section 1(4) of that Act; and
 - e. the costs and benefits of providing compensation to all persons who have been disabled by a Covid-19 vaccination administered in the United Kingdom without the need to establish fault.
8. Subsection (4) states the review must have regard to the effects of providing such

compensation on public confidence in vaccination programmes in the United Kingdom.

9. Subsections (5) and (6) requires that the current or former High Court judge appointed to lead the review:
 - a. must, within 90 days from when they are appointed, prepare a report on the review and provide it to the Secretary State; and
 - b. may recommend legislative or policy changes in the report.
10. Subsection (7) requires the Secretary of State to lay before Parliament:
 - a. the above report as soon as reasonably practicable after receiving it; and
 - b. the Government's response to the findings and any recommendations in the report within 30 days of the report having been laid before Parliament.

Clause 2: Extent, commencement and short title

11. Subsection (1) extends the provisions of the Bill to England and Wales, Scotland and Northern Ireland.
12. Subsection (2) provides that the Bill will come into force as an Act of Parliament on the day on which it is passed.
13. Subsection (3) provides that the short title of the Bill will be the Covid-19 Vaccine Damage Act 2024 once it becomes an Act of Parliament.

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