

Public Health Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 175

made under the

Public Health Act 2005

General Outline

Short title

Public Health Amendment Regulation (No. 1) 2015

Authorising law

Section 461 of the *Public Health Act 2005*

Policy objectives and the reasons for them

The *Public Health (Childcare Vaccination) and Other Legislation Amendment Act 2015* (the Amendment Act) will amend the *Public Health Act 2005* (the Public Health Act) to empower the person in charge of an approved education and care service to refuse, cancel or place a condition on the enrolment or attendance of a child who is not vaccinated, or not up to date with their scheduled immunisations. These amendments will commence on 1 January 2016.

The Amendment Act provides that the person in charge of an approved service may request that a child's parent provide an immunisation history statement showing whether the child's immunisation status as up to date. This statement will note 'up to date' if the child is age-appropriately immunised for each vaccine preventable condition.

The Australian Immunisation Handbook lists the vaccine preventable conditions against which a child must be fully immunised. Presently, the Public Health Act defines a *vaccine preventable condition* as a contagious condition prescribed by regulation as a vaccine preventable condition. Measles is the only vaccine preventable condition presently prescribed. However, there are other vaccine preventable conditions listed in the Australian Immunisation Handbook, not all of which are contagious conditions for the purposes of the Public Health Act.

The Amendment Act will amend the definition of *vaccine preventable condition* to enable other medical conditions to be prescribed as vaccine preventable conditions, even if they are not also contagious conditions. Accordingly, the policy objective of the *Public Health*

Amendment Regulation (No. 1) 2015 (the Amendment Regulation) is to prescribe those conditions listed in the Australian Immunisation Handbook as vaccine preventable conditions for the purpose of the Public Health Act.

Achievement of policy objectives

The Amendment Regulation amends the *Public Health Regulation 2005* (the Public Health Regulation) to prescribe following as vaccine preventable conditions:

- diphtheria
- haemophilus influenzae type b (invasive) disease
- hepatitis B
- measles
- meningococcal C
- mumps
- pertussis
- poliomyelitis infection
- pneumococcal disease (invasive)
- rotavirus infection
- rubella
- tetanus, and
- varicella – zoster virus infection (chickenpox).

This reflects all vaccine preventable conditions presently listed in the Australian Immunisation Handbook.

The Public Health Regulation also prescribes contagious conditions, and the prescribed periods for each contagious condition, for the purpose of powers in the Public Health Act allowing the person in charge of a school or an approved service to exclude a child suspected of having a contagious condition. The Amendment Regulation amends these provisions to clarify the drafting and improve the accuracy of the descriptions of some conditions. These amendments do not change the effect of the provisions.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Public Health Act.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The Amendment Regulation is the only means of achieving the policy objectives.

Benefits and costs of implementation

The Amendment Regulation will not impose any additional costs.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*.

Consultation

The Office of Best Practice Regulation was consulted in relation to the requirements of the Regulatory Impact Statement (RIS) System and advised that a RIS is not required.

No specific consultation was undertaken in relation to the Amendment Regulation. However, the policy and substance of the change was considered as part of the consultation process for the Amendment Act.

Notes on provisions

Short Title

Clause 1 provides that the short title of the Amendment Regulation will be the *Public Health Amendment Regulation (No. 1) 2015*.

Commencement

Clause 2 provides the Amendment Regulation will commence on 1 January 2016.

Regulation amended

Clause 3 provides that the Amendment Regulation amends the *Public Health Regulation 2005*.

Amendment of s 12B (Contagious condition—Act, s 158, definition *contagious condition*)

Clause 4 amends section 12B as a consequence of the changes made to schedule 2A.

Amendment of s 12D (Vaccine preventable condition—Act, s 158, definition *vaccine preventable condition*)

Clause 5 amends section 12D to omit the reference to part 2 of schedule 2A, and replace it with reference to new schedule 2B inserted by the Amendment Regulation. New schedule 2B is an expanded list of vaccine preventable conditions. As this list is not limited to those conditions that are also contagious conditions, clause 5 also amends section 12D to note the list contains both contagious conditions and other medical conditions.

Amendment of s 12E (Prescribed period for a contagious condition—Act, s 160)

Clause 6 amends sections 12E(1) and (2), to reflect the renumbering of parts 1 and 2 of schedule 2A as parts 2 and 3. Clause 6 also changes the reference to ‘vaccine preventable condition’ to ‘contagious condition’ in section 12E(2) to reflect the new heading of schedule 2A.

Amendment of sch 2A (Contagious conditions)

Clause 7 amends schedule 2A to prescribe contagious conditions in a separate part to the prescribed periods associated with these contagious conditions. This reorganisation better reflects the corresponding sections 160(2) and 160(3) in the Public Health Act.

Clause 7 also makes minor changes to the names of some of the conditions listed in parts 2 and 3 of schedule 2A, to improve the accuracy of description.

Insertion of new sch 2B

Clause 8 inserts new schedule 2B, which provides an expanded list of vaccine preventable conditions. This will ensure that, for the purpose of section 158 of the Public Health Act, the term *vaccine preventable condition* includes all of the conditions against which children must be immunised for their immunisation status to be considered ‘up to date’.

The references to *meningococcal disease (invasive)* in schedule 2A and *meningococcal C* in schedule 2B are intentionally different. This is because meningococcal C is the relevant specific condition within a group of meningococcal disease (invasive) conditions.

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