

Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019

Contents

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
Part 2 — <i>Public Health Act 2016</i> amended		
3.	Act amended	3
4.	Section 4 amended	3
5.	Section 91 amended	4
6.	Section 94 amended	5
7.	Section 135 amended	5
8.	Part 9 Division 8 replaced	6
Division 8 — Immunisation status of children		
Subdivision 1 — Preliminary		
141A.	Terms used	6
Subdivision 2 — Immunisation requirements for enrolment		
141B.	Responsible person to give immunisation status to person in charge	7
141C.	Immunisation certificates issued or declared by Chief Health Officer	8
141D.	Immunisation or exemption a condition of enrolment	9
Subdivision 3 — Regulations relating to immunisation status of children		
142.	Regulations relating to immunisation status of children and control of disease	10
9.	Section 240 amended	12
10.	Section 254 replaced	12
254.	False or misleading information	12

Contents

11.	Section 280 amended	13
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**Part 3 — *School Education Act 1999*
amended**

12.	<i>School Education Act 1999</i> amended	14
13.	Section 3 amended	14
14.	Section 16 amended	14
15.	Section 17 amended	15
16.	Section 23 amended	15
17.	Section 27 amended	15
18.	Section 77 amended	16
19.	Section 82 amended	16
20.	Section 159 amended	17
21.	Section 206 amended	17

Western Australia

LEGISLATIVE COUNCIL

**Public Health Amendment (Immunisation
Requirements for Enrolment) Bill 2019**

A Bill for

***An Act to amend the *Public Health Act 2016* and the *School
Education Act 1999*.***

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Public Health Amendment (Immunisation Requirements for Enrolment) Act 2019*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — Public Health Act 2016 amended

3. Act amended

This Part amends the *Public Health Act 2016*.

4. Section 4 amended

(1) In section 4(1) delete the definitions of:

child care service

school

(2) In section 4(1) insert in alphabetical order:

child care service —

(a) means —

(i) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1); or

(ii) a child care service as defined in the *Child Care Services Act 2007* section 4;

but

(b) does not include a child care service prescribed for the purposes of this definition;

community kindergarten means a kindergarten registered under the *School Education Act 1999* Part 5;

compulsory education period has the meaning given in the *School Education Act 1999* section 6;

school means a government school, or a non-government school, as defined in the *School Education Act 1999* section 4;

s. 5

1 ***urgently notifiable infectious disease-related***
2 ***condition*** means a notifiable infectious disease-related
3 condition declared under section 91 to be an urgently
4 notifiable infectious disease-related condition;
5

6 **5. Section 91 amended**

7 (1) Delete section 91(1) and insert:
8

9 (1) In this section —

10 ***acute rheumatic fever*** means an illness caused by an
11 autoimmune response to a bacterial infection with
12 group A streptococcus (GAS);

13 ***rheumatic heart disease*** means damage to the heart
14 resulting from an episode, or more than one episode, of
15 acute rheumatic fever.

16 (1A) The regulations may —

- 17 (a) declare a medical condition, other than a
18 notifiable infectious disease, to be a notifiable
19 infectious disease-related condition; or
20 (b) declare a notifiable infectious disease-related
21 condition to be an urgently notifiable infectious
22 disease-related condition.
23

24 (2) In section 91(2) after “disease-related condition” insert:
25

26 or an urgently notifiable infectious disease-related condition
27

1 (3) After section 91(2) insert:

2

3 (3) The following medical conditions cannot be declared to
4 be a notifiable infectious disease-related condition or
5 an urgently notifiable infectious disease-related
6 condition —

7 (a) acute rheumatic fever;

8 (b) rheumatic heart disease.

9

10 **6. Section 94 amended**

11 Delete section 94(4)(a) and insert:

12

13 (a) as soon as is practicable, and in any event —

14 (i) in the case of an urgently notifiable
15 infectious disease or an urgently
16 notifiable infectious disease-related
17 condition, within 24 hours; or

18 (ii) in the case of any other notifiable
19 infectious disease or notifiable
20 infectious disease-related condition,
21 within 72 hours;

22 and

23

24 **7. Section 135 amended**

25 Delete section 135(2)(b) and insert:

26

27 (b) if the affected person or exposed person is
28 believed to be attending, or to have attended, a
29 school, community kindergarten, child care
30 service, university or other educational
31 institution, a teacher, lecturer, or other member

s. 8

1 of staff of the school, community kindergarten,
2 child care service, university or institution;
3

4 **8. Part 9 Division 8 replaced**

5 Delete Part 9 Division 8 and insert:
6

7 **Division 8 — Immunisation status of children**

8 **Subdivision 1 — Preliminary**

9 **141A. Terms used**

10 In this Division —

11 ***Australian Immunisation Register*** means the register
12 called the Australian Immunisation Register kept under
13 the *Australian Immunisation Register Act 2015*
14 (Commonwealth) section 8;

15 ***child*** means a person who is under 18 years of age;

16 ***current***, in relation to an immunisation certificate for a
17 child, means a certificate issued not more than the
18 prescribed period before —

19 (a) the most recent date of an application for
20 enrolment of the child in a school, community
21 kindergarten or child care service; or

22 (b) the day on which the certificate is otherwise
23 required to be provided under this Act;

24 ***exempt child*** means a child who is in a class of
25 children prescribed by the regulations for the purposes
26 of this definition;

27 ***immunisation certificate*** means —

28 (a) an extract of an entry in the Australian
29 Immunisation Register; or

(b) a certificate issued by the Chief Health Officer under section 141C(1); or

(c) a document declared to be an immunisation certificate under section 141C(3);

immunisation status means the status of —

(a) having been immunised against, or having acquired immunity by infection from, all or specified vaccine preventable notifiable infectious diseases; or

(b) not having been immunised against, and not having acquired immunity by infection from, all or specified vaccine preventable notifiable infectious diseases;

person in charge, of a school, community kindergarten or child care service, means the person who has responsibility for the day-to-day management and control of the school, community kindergarten or child care service;

responsible person, in relation to a child, means —

(a) a parent of the child; or

(b) a guardian of the child; or

(c) another person who has responsibility for the day-to-day care of the child.

Subdivision 2 — Immunisation requirements for enrolment

141B. Responsible person to give immunisation status to person in charge

(1) This section applies to a child enrolling in, or enrolled in, a school, community kindergarten or child care service.

(2) The responsible person for the child is required to give to the person in charge of the school, community kindergarten or child care service the immunisation

s. 8

- 1 status of the child as recorded on the current
2 immunisation certificate for the child —
- 3 (a) when the child is being enrolled in the school,
4 community kindergarten or child care service;
5 and
- 6 (b) at such other time or times as are prescribed by
7 the regulations.
- 8 (3) For the purposes of ensuring compliance with
9 subsection (2), the person in charge may require the
10 responsible person for the child to produce the current
11 immunisation certificate for the child.
- 12 (4) The person in charge must take all reasonable steps to
13 ensure that the responsible person for the child
14 complies with subsection (2).
- 15 Penalty for this subsection: a fine of \$1 000.
- 16 **141C. Immunisation certificates issued or declared by**
17 **Chief Health Officer**
- 18 (1) The Chief Health Officer may issue an immunisation
19 certificate for a child for the purposes of section 141B
20 if —
- 21 (a) the Chief Health Officer is —
- 22 (i) satisfied that a circumstance prescribed
23 by the regulations is applicable to the
24 child; or
- 25 (ii) otherwise satisfied that a special
26 circumstance is applicable to the child;
27 and
- 28 (b) the Chief Health Officer is satisfied that, but for
29 that circumstance, the child's immunisation
30 status would be up-to-date.

1 (2) An immunisation certificate issued under
2 subsection (1) remains in force for the period specified
3 in the certificate or, if no period is specified, for an
4 indefinite period.

5 (3) The Chief Health Officer may, by notice published in
6 the *Gazette*, declare a document or a class of
7 documents to be an immunisation certificate for the
8 purposes of section 141B.

9 **141D. Immunisation or exemption a condition of**
10 **enrolment**

11 (1) Unless a child meets a requirement of subsection (2),
12 the person in charge of a school, community
13 kindergarten or child care service must not permit the
14 child to enrol in —

15 (a) the school, before the child's compulsory
16 education period; or

17 (b) the community kindergarten; or

18 (c) the child care service.

19 Penalty for this subsection: a fine of \$10 000.

20 (2) A child meets a requirement of this subsection if —

21 (a) the immunisation certificate for the child states
22 that the child's immunisation status is
23 up-to-date; or

24 (b) the immunisation certificate for the child states
25 that the Chief Health Officer is satisfied that,
26 but for a circumstance mentioned in
27 section 141C(1)(a), the child's immunisation
28 status would be up-to-date; or

29 (c) the immunisation certificate for the child is a
30 document, or a document belonging to a class
31 of documents, declared to be an immunisation
32 certificate under section 141C(3); or

s. 8

- 1 (d) the child is following a catch-up schedule
2 prescribed by the regulations; or
3 (e) the person in charge is satisfied that the child is
4 an exempt child.

5 **Subdivision 3 — Regulations relating to immunisation status**
6 **of children**

7 **142. Regulations relating to immunisation status of**
8 **children and control of disease**

- 9 (1) Without limiting section 304(1), regulations may —
10 (a) require the person in charge of a school,
11 community kindergarten or child care service,
12 when directed to do so by the Chief Health
13 Officer, to give a report to the Chief Health
14 Officer in respect of information given to the
15 person about the immunisation status of —
16 (i) a child enrolled at the school,
17 community kindergarten or child care
18 service; or
19 (ii) children enrolled at the school,
20 community kindergarten or child care
21 service;
22 and
23 (b) require the person in charge of a school,
24 community kindergarten or child care service,
25 when directed to do so by the Chief Health
26 Officer either when giving a direction under
27 regulations made under paragraph (a) or at a
28 later time, to give to the Chief Health Officer
29 further information necessary to assist in
30 preventing, controlling or abating a public
31 health risk that might foreseeably arise from a
32 child or children not being immunised against a

- 1 vaccine preventable notifiable infectious
2 disease, including —
- 3 (i) the names of, and other identifying
4 information in relation to, the child or
5 children; and
- 6 (ii) the names and contact details of the
7 responsible persons for the child or
8 children;
- 9 and
- 10 (c) in the case of a child at a school, community
11 kindergarten or child care service who has
12 contracted, or is reasonably believed to have
13 contracted, a vaccine preventable notifiable
14 infectious disease, require the person in charge
15 of the school, community kindergarten or child
16 care service to give to the Chief Health Officer
17 a report in respect of the child; and
- 18 (d) require the person in charge of a school,
19 community kindergarten or child care service,
20 when directed to do so by the Chief Health
21 Officer, to ensure that a child who has not been
22 immunised against a vaccine preventable
23 notifiable infectious disease specified by the
24 Chief Health Officer is not permitted to attend,
25 or participate in an educational programme of,
26 the school, community kindergarten or child
27 care service for the period specified by the
28 Chief Health Officer; and
- 29 (e) require the person in charge of a school,
30 community kindergarten or child care service,
31 when directed to do so by the Chief Health
32 Officer, to close the whole, or a part, of the
33 school, community kindergarten or child care
34 service for the period specified by the Chief
35 Health Officer to limit or prevent the spread of

s. 9

- 1 a vaccine preventable notifiable infectious
2 disease.
- 3 (2) Despite subsection (1)(a) and (b), the regulations may
4 provide that the person required to provide the relevant
5 report or information when directed to do so by the
6 Chief Health Officer is —
- 7 (a) the chief executive officer, as defined in the
8 *School Education Act 1999* section 229; or
- 9 (b) if the relevant information is held in an
10 information management system established
11 and maintained by another person or body, that
12 other person or body.
- 13

14 **9. Section 240 amended**

15 In section 240(1)(d) delete “public health risk” and insert:

16

17 public health risk, including a public health risk that might
18 foreseeably arise from a child or children not having been
19 immunised against a vaccine preventable notifiable infectious
20 disease,

21

22 **10. Section 254 replaced**

23 Delete section 254 and insert:

24

25 **254. False or misleading information**

- 26 (1) A person must not give false or misleading information
27 to —
- 28 (a) an authorised officer who is carrying out a
29 function under this Act; or

- 1 (b) any person pursuant to a requirement under this
2 Act to provide information or produce a record
3 or other document to that person.

4 Penalty for this subsection: a fine of \$10 000.

- 5 (2) For the purposes of subsection (1), a person gives false
6 or misleading information if the person does one or
7 more of the following —

8 (a) states anything that the person knows is false or
9 misleading in a material particular;

10 (b) omits from a statement anything without which
11 the statement is, to the person's knowledge,
12 misleading in a material particular;

13 (c) gives or produces any record or other document
14 that —

15 (i) the person knows is false or misleading
16 in a material particular; or

17 (ii) omits anything without which the record
18 or other document is, to the person's
19 knowledge, misleading in a material
20 particular.
21

22 **11. Section 280 amended**

23 Delete section 280(b) and insert:

24
25 (b) by a local government, by the chief executive
26 officer of a local government or by an
27 authorised officer authorised in writing by the
28 local government; or

29 (c) by an enforcement agency of a kind referred to
30 in paragraph (c) of the definition of
31 **enforcement agency** in section 4(1) or by an
32 authorised officer authorised in writing by an
33 enforcement agency of that kind.
34

1 **Part 3 — *School Education Act 1999* amended**

2 **12. *School Education Act 1999* amended**

3 This Part amends the *School Education Act 1999*.

4 **13. Section 3 amended**

5 In section 3(1)(a) delete “education; and” and insert:

6

7 education during the child’s compulsory education period; and

8

9 **14. Section 16 amended**

10 (1) Before section 16(1) insert:

11

12 (1A) In this section —

13 *immunisation status* has the meaning given in the
14 *Public Health Act 2016* section 141A.

15

16 (2) Delete section 16(1)(f).

17 (3) In section 16(2) delete “applicant.” and insert:

18

19 applicant under subsection (1).

20

21 (4) After section 16(2) insert:

22

23 (3) A person who wishes to make an application for
24 enrolment of a child at a school is to provide the
25 immunisation status of the enrollee in accordance with
26 the *Public Health Act 2016* section 141B.

27

1 **15. Section 17 amended**

2 In section 17(1)(b) after “(c) or (g)” insert:

3

4 or section 16(3)

5

6 **16. Section 23 amended**

7 (1) In section 23(1):

8 (a) delete “must” and insert:

9

10 must, for every year of the student’s compulsory
11 education period,

12

13 (b) in paragraph (a)(i) delete “he or she” and insert:

14

15 the student

16

17 (2) Delete section 23(2)(b) and insert:

18

19 (b) section 27 (which relates to non-attendance for
20 public health reasons); and

21

22 **17. Section 27 amended**

23 (1) Before section 27(1) insert:

24

25 (1A) In this section —

26 **Chief Health Officer** has the meaning given in the
27 *Public Health Act 2016* section 4(1).

28 (1B) The principal of a school must comply with a direction
29 given by the Chief Health Officer under regulations
30 made for the purposes of the *Public Health Act 2016*

s. 18

1 section 142(1)(d) to not permit a child to attend the
2 school or participate in an educational programme of
3 the school.
4

5 (2) In section 27(2) delete “This section” and insert:
6

7 Subsection (1)
8

9 (3) Delete section 27(3A).

10 Note: The heading to amended section 27 is to read:

11 **Non-attendance of student may be required on public health**
12 **grounds**

13 **18. Section 77 amended**

14 After section 77(a) insert:
15

16 (aa) the enrolment would not contravene the *Public*
17 *Health Act 2016* section 141D; and
18

19 **19. Section 82 amended**

20 (1) After section 82(1) insert:
21

22 (1A) However, this section does not apply to a child in the
23 child’s pre-compulsory education period if the
24 enrolment of the child would contravene the *Public*
25 *Health Act 2016* section 141D.
26

27 (2) Delete section 82(2)(d) and insert:
28

29 (d) any other criteria prescribed for the purposes of
30 section 76(2), 77(b), 78(2)(b) or 79(1)(b), as the
31 case requires, are satisfied,
32

- 1 (3) In section 82(3):
- 2 (a) delete “decides that —” and insert:
- 3
- 4 decides under subsection (2) that —
- 5
- 6 (b) delete paragraph (d) and insert:
- 7
- 8 (d) any other criteria prescribed for the purposes of
- 9 section 77(b), 78(2)(b) or 79(1)(b), as the case
- 10 requires, are not satisfied in relation to the
- 11 child,
- 12

13 Note: The heading to amended section 82 is to read:

14 **Resolving question under s. 76, 77, 78 or 79**

15 **20. Section 159 amended**

16 After section 159(1)(h) insert:

17

- 18 (ha) the health and safety procedures at schools,
- 19 including immunisation requirements for
- 20 enrolment;
- 21

22 **21. Section 206 amended**

23 Delete section 206(2) and insert:

24

- 25 (2) The enrolment of a child at a community kindergarten
- 26 is to be in accordance with —
- 27 (a) the *Public Health Act 2016* section 141D; and
- 28 (b) the regulations.
- 29

30
