

**PUBLIC HEALTH AMENDMENT
(IMMUNISATION REQUIREMENTS FOR ENROLMENT) BILL 2019**

Introduction and First Reading

Bill introduced, on motion by **Hon Sue Ellery (Minister for Education and Training)**, and read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan — Minister for Education and Training) [5.07 pm]: I move —

That the bill be now read a second time.

The purpose of the Public Health Amendment (Immunisation Requirements for Enrolment) Bill 2019 is to increase childhood immunisation rates in Western Australia through strengthening the immunisation requirements for enrolment in early childhood education and care. The commonwealth national immunisation program aims to protect the Australian population from vaccine-preventable diseases and continues to work towards increasing childhood immunisation rates. During 2017, the Council of Australian Governments developed options for a national approach to increasing immunisation rates in early childhood education. In February 2018, these options were noted out of session without any agreement of a way forward. In August 2018, former Prime Minister Turnbull proposed that COAG should assess the costs, benefits and regulatory impacts of a national approach. This was expected to be completed by March 2019. During this time, the WA government announced its intention that WA should be among the jurisdictions taking a lead on this issue regardless of any future COAG decision.

Immunisation is a safe and effective way of protecting individuals against serious infectious disease. Immunisation not only protects individuals from life-threatening diseases, but also reduces the spread of disease within a community, often referred to as indirect protection or “herd immunity”. The higher the proportion of people who are immune to a disease through vaccination, the fewer opportunities a disease has to spread. Despite all efforts to achieve and maintain childhood immunisation rates of 95 per cent and above—considered optimal to achieve herd immunity—immunisation coverage among WA children remains lower than other Australian jurisdiction. In particular, in 2017 WA recorded the lowest immunisation coverage for two-year-olds at 89.1 per cent. Although standard community health initiatives, which promote the benefits of immunisation and provide for vaccination reminders to both parents and healthcare providers, can improve childhood immunisation rates, these strategies are insufficient to achieve and maintain 95 per cent immunisation coverage in large, diverse populations.

The government has a responsibility to take measures beyond standard initiatives to protect individuals and the community from serious infectious disease. The bill strengthens immunisation requirements for enrolment into childcare services and kindergarten programs as a further means to mitigate the risk of illness and death from vaccine-preventable diseases. The bill also reinforces the message that it is a shared responsibility to protect members of the community from serious infectious diseases. This is especially important to protect those who may be more at risk, such as those too young to be vaccinated and those unable to be vaccinated due to medical reasons. This includes children with a serious allergy to a specific vaccine or those who are immunocompromised due to illnesses such as leukaemia or HIV/AIDS or medical treatments such as high-dose steroids or chemotherapy. The proposed immunisation requirements on enrolment apply to children enrolling in a childcare service other than a prescribed childcare service—that is, a service operating on a temporary, casual or ad hoc basis. The immunisation requirements also apply to enrolments in pre-kindergarten and kindergarten programs in both government and non-government schools and in community kindergartens. The proposed changes do not apply to compulsory schooling, which commences with pre-primary.

The bill is broken into three parts. Part 1 provides for the short title and commencement provisions. Part 1 of the bill is to come into operation on the day on which the bill receives royal assent. Parts 2 and 3 are to come into operation on a day fixed by proclamation. It is proposed that the bill is to be in effect in time for the July 2019 enrolments for 2020.

Part 2 provides for amendments to the Public Health Act 2016. These amendments implement the framework for the new immunisation requirements on enrolment. Part 2 of the bill also includes miscellaneous amendments required to the Public Health Act that are required prior to implementation of the Public Health Act’s remaining provisions.

Part 3 provides for amendments to the School Education Act 1999. These amendments are required to achieve consistency with and complement the changes to the Public Health Act. A significant amendment in this part is the amendment to the objects of the School Education Act. This amendment recognises the limitation arising from the immunisation requirement before the compulsory education period and the different position for the compulsory education period.

The bill amends the Public Health Act 2016 to provide that a school, community kindergarten or childcare service must not permit a child to enrol before the child’s compulsory education period unless the child’s immunisation certificate states that the child’s immunisations are up to date. An immunisation certificate is defined in the bill as

an extract of a child's Australian Immunisation Register—AIR—record. This is commonly known as the child's AIR immunisation history statement. This record shows that a child is up to date if they are fully age-appropriately immunised in accordance with the national immunisation program schedule, have a registered medical contraindication to vaccination or have acquired natural immunity to a particular vaccination under section 9(c) of the commonwealth Australian Immunisation Register Act 2015. The bill provides children following a catch-up schedule in accordance with the regulations are also permitted to enrol.

It is recognised that certain children experiencing vulnerability or disadvantage may be disproportionately negatively affected by the new immunisation enrolment requirements. The Productivity Commission has found that the lifetime benefits of quality early education are greater for children from disadvantaged backgrounds. In recognition of this, the bill provides for these children to be prescribed in the regulations as exempt from the immunisation requirements for enrolment. It is proposed that exempt children will include, for example —

- Aboriginal or Torres Strait Islander children as defined under the Children and Community Services Act 2004;
- children with an approved secretary's exemption from the commonwealth family assistance law child care subsidy immunisation requirements or an approved exemption from the additional childcare subsidy immunisation requirements due to being at risk of serious abuse or neglect;
- children in need of protection under the Children and Community Services Act 2004;
- children living in crisis or emergency accommodation—for example, those who are homeless or in an immediate housing crisis due to domestic or family violence or the risk of domestic or family violence;
- children evacuated from their residence as a result of a declared natural disaster under the Emergency Management Act 2005;
- children who are in the care of adults who are not the children's parents due to exceptional circumstances such as illness or incapacity—for example, children placed in emergency foster care;
- children in the care of a parent who is the holder of an income support payment; and
- children who are, or whose parents are, refugees, migrants or asylum seekers on humanitarian visas recently arrived in Western Australia—for example, the parents of such children may have limited English language skills, difficulty understanding the immunisation enrolment requirements, verifying any overseas immunisation records and/or producing an Australian immunisation record.

The purpose of these exemptions is not for these children to remain under-vaccinated. Many of these vulnerable and disadvantaged children may be living in situations in which it has been difficult for immunisation to be prioritised, and, as such, the Department of Health has allocated resources to ensure that these families will receive additional support to catch up these children on missed vaccinations.

In accordance with recently introduced requirements under the Public Health Regulations 2017, during term 1 of each school year, the Department of Health will request reports of children who are not up to date with their vaccinations enrolled in childcare services, kindergarten programs and pre-primary. This will capture children enrolled under an exemption class as above, and who are under-vaccinated. With this information, the Department of Health will follow up with the families of these children to provide additional support in accessing local immunisation services as a means to ensure that these children are caught up on missing vaccinations.

The bill also provides a mechanism to address the situation in which a child's AIR immunisation history statement cannot be used as evidence of their immunisation status due to an atypical or unforeseen circumstance, but for which the child would otherwise be fully vaccinated for age—for example, when there is a temporary vaccine shortage. In these circumstances, the Chief Health Officer can issue an alternative certificate for enrolment purposes.

Other components of the bill include a requirement for a parent or guardian to provide updated information about their child's immunisation status to the person in charge of a childcare service, community kindergarten or school at such other times, in addition to on enrolment, as prescribed in the regulations. This regulation power is included for future flexibility.

Another component includes amendments to section 240(1)(d) of the Public Health Act to clarify powers of entry and inspection when it is suspected there are documents that relate to a public health risk. A public health risk has been clarified to include a risk that might foreseeably arise from a child not having been immunised against a vaccine-preventable notifiable infectious disease.

Another component is amendments to clarify that the offence under section 254 of the Public Health Act of providing false information also applies when a person is required to provide information or produce a document regarding a child's immunisation status and eligibility for exemption. Another component includes an amendment to repeal obsolete provisions and clarify regulation-making powers in section 142 of the Public Health Act.

To support the bill, various matters are required to be prescribed in regulations. Consequential amendments are also required to the Public Health Regulations 2017, School Education Regulations 2000, School Education (Student Residential Colleges) Regulations 2017, Education and Care Services National Regulations 2012 and Child Care Services (Child Care) Regulations 2006.

Vaccinations in the Australian childhood immunisation schedule are provided at no cost under the national immunisation program. For parents and guardians who refuse to vaccinate their children, the bill provides that their children will be unable to enrol in a childcare service or kindergarten program, and they will need to consider alternative arrangements. It is estimated this will affect approximately 1.3 per cent of children based on the national estimate from 2015. Despite that some children are eligible for an exemption from the immunisation requirements for enrolment, it is understood that many of the children who fall within a proposed exemption class are already partially or fully vaccinated for age. Therefore, it is the government's strong belief that the bill will increase WA's childhood immunisation rates to herd immunity level across the regions and metropolitan area. I note the concerns that the operational activities of childcare services, community kindergartens and schools may be impacted by the bill. These services will be required to check a child's immunisation status on enrolment and, when required, determine whether a child qualifies for an exemption. The Department of Health is working in collaboration with the Departments of Education and Communities to minimise any administrative burden that may arise from the bill by developing comprehensive guidance material for people in charge of these services.

The bill also provides for amendments unrelated to the new immunisation enrolment requirement that are required to implement the remaining provisions of the Public Health Act 2016. These amendments include the addition of a new category of urgently notifiable infectious disease-related conditions, which must be notified within 24 hours rather than the current 72 hours. This time frame of 24 hours will assist to limit and prevent the spread of these types of conditions. The bill also provides that acute rheumatic fever and rheumatic heart disease cannot be declared notifiable infectious disease-related conditions or urgently notifiable infectious disease-related conditions. Although these conditions are technically infectious disease-related conditions, separate legislation specifically deals with these conditions and it is therefore important that these two conditions do not fall within the remit of part 9 of the Public Health Act 2016.

Pursuant to Legislative Council standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does it, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and table the explanatory memorandum.

[See paper 2666.]

Debate adjourned, pursuant to standing orders.