

HE303

Public Health Act 2016

Public Health Amendment Regulations 2019

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Public Health Amendment Regulations 2019*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Public Health Amendment (Immunisation Requirements for Enrolment) Act 2019* section 8 comes into operation.

3. Regulations amended

These regulations amend the *Public Health Regulations 2017*.

4. Part 1A inserted

After regulation 2 insert:

**Part 1A — Services excluded from meaning of
child care service**

**2A. Services excluded from meaning of child care
service**

For the purposes of paragraph (b) of the definition of *child care service* in section 4(1) of the Act, the following child care services are prescribed —

- (a) a service described in the *Education and Care Services National Regulations 2012* regulation 5(2)(c) or (h);
- (b) an outside school hours care service, a school holiday care service or any part of a service that is an outside school hours care service or a school holiday care service.

5. Regulation 4A inserted

After regulation 4 insert:

**4A. Urgently notifiable infectious disease-related
conditions**

The following notifiable infectious disease-related conditions are declared to be urgently notifiable infectious disease-related conditions —

- (a) acute post-streptococcal glomerulonephritis (APSGN);
- (b) haemolytic uraemic syndrome (HUS).

6. Regulation 6 amended

In regulation 6(2)(e) delete “school” and insert:

school, community kindergarten, child care service

7. Part 2A heading amended

In the heading to Part 2A after “**Immunisation**” insert:

status

8. Regulation 10A amended

(1) Delete regulation 10A(1) and insert:

(1) In this Part —

Australian Immunisation Handbook means the Australian Immunisation Handbook approved as guidelines under the *National Health and Medical Research Council Act 1992* (Commonwealth) section 14A;

government school has the meaning given in the *School Education Act 1999* section 4;

National Health and Medical Research Council means the National Health and Medical Research Council established by the *National Health and Medical Research Council Act 1992* (Commonwealth) section 5B;

recognised immunisation provider means a recognised vaccination provider as defined in the *Australian Immunisation Register Act 2015* (Commonwealth) section 4;

relevant person, in relation to a school, means each of the following —

- (a) the person in charge of the school;
- (b) if the school is a government school, the chief executive officer as defined in the *School Education Act 1999* section 229.

(2) In regulation 10A(2) delete “section 142(1)” and insert:

section 141A

9. Regulations 10AA to 10AD inserted

After regulation 10A insert:

10AA. Period prescribed for definition of *current*

For the purposes of the definition of *current* in section 141A of the Act, the prescribed period is 2 months.

10AB. Exempt children

(1) In this regulation —

Veterans' Affairs Department means the Department of State of the Commonwealth assisting in the

administration of the *Veterans' Entitlements Act 1986* (Commonwealth).

- (2) For the purposes of the definition of *exempt child* in section 141A of the Act, the classes of children specified in column 1 of the Table to subregulation (3) are prescribed.
- (3) A child belongs to a class of children specified in column 1 of the Table if, at the time of the enrolment of the child, the child meets the description specified opposite the class in column 2 of the Table.

Table

Column 1 Name of class	Column 2 Description of child in class
Aboriginal children	An Aboriginal child as defined in the <i>Children and Community Services Act 2004</i> section 3.
Torres Strait Islander children	A Torres Strait Islander child as defined in the <i>Children and Community Services Act 2004</i> section 3.
Children in need of protection	A child who is in need of protection as defined in the <i>Children and Community Services Act 2004</i> section 28(2).
Children living in crisis accommodation	A child who is living in crisis or emergency accommodation because of— <ul style="list-style-type: none"> (a) family violence or a risk of family violence; or (b) homelessness.
Evacuated children	A child who has been evacuated from their ordinary place of residence because it is in an area of the State to which a declaration made under the <i>Emergency Management Act 2005</i> section 56 applies.
Children in care of adult other than parent or guardian	A child who is in the care of an adult, other than their parent or guardian, because of exceptional circumstances (for example, illness or incapacity of their parent or guardian).

Column 1 Name of class	Column 2 Description of child in class
Children in care of holders of certain cards under Commonwealth law	<p>A child who is in the care of a responsible person who holds any of the following —</p> <ul style="list-style-type: none"> (a) an automatic issue health care card issued under the <i>Social Security Act 1991</i> (Commonwealth) section 1061ZS; (b) a pensioner concession card issued under the <i>Social Security Act 1991</i> (Commonwealth) section 1061ZF; (c) a Gold Card issued by the Veterans' Affairs Department in relation to the person's entitlement for treatment under the <i>Veterans' Entitlements Act 1986</i> (Commonwealth); (d) a White Card issued by the Veterans' Affairs Department in relation to the person's entitlement for treatment under the <i>Veterans' Entitlements Act 1986</i> (Commonwealth).
Humanitarian visa children	<p>A child who first entered Australia not more than 6 months before the time of enrolment and who holds, or whose parent holds, a visa (as defined in the <i>Migration Act 1958</i> (Commonwealth) section 5(1)) of one of the following subclasses —</p> <ul style="list-style-type: none"> (a) 200 (Refugee); (b) 201 (In-country Special Humanitarian); (c) 202 (Global Special Humanitarian); (d) 203 (Emergency Rescue);

Column 1 Name of class	Column 2 Description of child in class
	(e) 204 (Woman at Risk); (f) 785 (Temporary Protection); (g) 790 (Safe Haven Enterprise); (h) 866 (Protection).

10AC. Circumstances in which Chief Health Officer may issue a certificate

- (1) In this regulation —

scheduled vaccinations, in relation to a child, means the vaccinations that would, if given to the child, result in the child's immunisation status being up-to-date.

- (2) For the purposes of section 141C(1)(a)(i) of the Act, the circumstances in the Table are prescribed.

Table

Circumstance	Description of circumstance
Temporary unavailability of vaccine	A scheduled vaccination that a child has not received at a particular age is temporarily unavailable (or all of the vaccines for that vaccination are temporarily unavailable), due to a shortage advised to the Department in writing by the person who occupies, or is acting in, the position of Commonwealth Chief Medical Officer.
Child vaccinated overseas	A child has not received one or more scheduled vaccinations in Australia, but the child has received one or more vaccinations while outside Australia that have provided the child with the same level of immunisation that the child would have acquired if the child had been vaccinated with those scheduled vaccinations, as certified in writing by a recognised immunisation provider.

Circumstance	Description of circumstance
Child part of approved vaccine study	A child is part of a vaccine study approved by a Human Research Ethics Committee registered with the National Health and Medical Research Council, as certified in writing by the researchers conducting the study.

10AD. Immunisation catch-up schedule

For the purposes of section 141D(2)(d) of the Act, a catch-up schedule is prescribed if it is planned by a recognised immunisation provider in accordance with the Australian Immunisation Handbook.

10. Regulation 10B deleted

Delete regulation 10B.

11. Regulation 10C amended

In regulation 10C(1):

- (a) delete “the person in charge of a school” and insert:

the relevant person in relation to a school or the person in charge of a community kindergarten or child care service

- (b) after “in respect of” insert:

information given to the person about

- (c) in paragraph (a) delete “school; or” and insert:

school, community kindergarten or child care service; or

- (d) in paragraph (b) delete “school.” and insert:

school, community kindergarten or child care service.

Note: The heading to amended regulation 10C is to read:

Relevant person or person in charge to give report on immunisation status

12. Regulation 10D amended

In regulation 10D(1) delete “school” (each occurrence) and insert:

school, community kindergarten or child care service

Note: The heading to amended regulation 10D is to read:

Person in charge to give report on contracted disease

13. Regulation 10E amended

(1) Delete regulation 10E(1) and (2) and insert:

(1) The Chief Health Officer may direct the person in charge of a school, community kindergarten or child care service not to permit a child to attend, or participate in an educational programme of, the school, community kindergarten or child care service if the child has not been immunised against a vaccine preventable notifiable infectious disease.

(2) The direction must —

- (a) be in writing; and
- (b) specify the vaccine preventable notifiable infectious disease that the child has not been immunised against; and
- (c) specify the period of time during which the child is not permitted to attend, or participate in an educational programme of, the school, community kindergarten or child care service.

(2) Delete regulation 10E(4) and insert:

(4) If the Chief Health Officer directs that a child is not permitted to attend, or participate in an educational programme of, a school, community kindergarten or child care service under subregulation (1), the person in charge of the school, community kindergarten or child care service or an authorised officer must give written notice to the responsible person for the child that the child is not permitted to attend, or participate in an educational programme of, the school, community kindergarten or child care service.

Penalty for this subregulation: a fine of \$1 000.

(3) In regulation 10E(5):

- (a) in paragraph (a) delete “against, or has not acquired immunity from; and” and insert:

against; and

(b) in paragraph (b) delete “attend the school.” and insert:

attend, or participate in an educational programme of, the school, community kindergarten or child care service.

Note: The heading to amended regulation 10E is to read:

Person in charge to prevent attendance of non-immunised child

14. Regulation 10F amended

In regulation 10F(1) and (2) delete “school” (each occurrence) and insert:

school, community kindergarten or child care service

Note: The heading to amended regulation 10F is to read:

Closure of whole or part of school, community kindergarten or child care service

15. Regulation 10G amended

(1) Delete regulation 10G(1) and (2) and insert:

(1) This regulation applies if the Chief Health Officer directs a person to give a report to the Chief Health Officer under regulation 10C(1).

(2) The Chief Health Officer may, when giving the direction or at a later time, request the person to give to the Chief Health Officer further information necessary to assist in preventing, controlling or abating a public health risk that might foreseeably arise from a child or children in respect of whom the report is given not being immunised against a vaccine preventable notifiable infectious disease.

(2) In regulation 10G(3)(a) delete “the child or children; and” and insert:

a child who has not, or children who have not, been immunised against a vaccine preventable notifiable infectious disease; and

R. NEILSON, Clerk of the Executive Council.
