

**Legislative Council—No 239**

As introduced and read a first time, 27 September 2017

South Australia

**South Australian Public Health (Immunisation and  
Early Childhood Services) Amendment Bill 2017**

A BILL FOR

An Act to amend the *South Australian Public Health Act 2011*.

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

- 5 This Act may be cited as the *South Australian Public Health (Immunisation and Early Childhood Services) Amendment Act 2017*.

#### 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

#### 3—Amendment provisions

- 10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## Part 2—Amendment of *South Australian Public Health Act 2011*

### 4—Insertion of Part 12A

After Part 12 insert:

## Part 12A—Immunisation and Early Childhood Services

### 96A—Interpretation

(1) In this Part—

*early childhood service* means a service for the education or care (or both) of young children provided for fee or reward but does not include the following services:

- (a) the provision of primary education provided at or in connection with a primary school;
- (b) a service comprising a person engaged by a parent or guardian of a child to babysit the child in the child's home;
- (c) a babysitting, playgroup or childminding service that is organised informally by the parents of the children concerned;
- (d) a service provided for a child by a family member of the child or friend of the family of the child personally under an informal arrangement where no offer to provide that service was advertised;
- (e) a service principally conducted to provide tuition to 1 child or a number of children who ordinarily reside together;
- (f) a service principally conducted to provide instruction in a particular activity (such as sport, dance and music);
- (g) a service where a parent or guardian of each child remains on site and is available to care for their child if required;
- (h) a service comprising out of school care;
- (i) care provided to a child by a person in accordance with a parenting order under the *Family Law Act 1975* of the Commonwealth or the *Family Court Act 1997* of the Commonwealth;
- (j) care provided to a child in accordance with an approval under the *Children's Protection Act 1993*;
- (k) any other service, or service of a kind, prescribed by the regulations;

**Example—**

For example, childcare, family day care, pre-school, kindergarten and early learning centre services are early childhood services for the purposes of this Part.

5 ***immunisation history statement***, in relation to a child, means an extract, or extracts, from the Australian Immunisation Register under the *Australian Immunisation Register Act 2015* of the Commonwealth relating to the immunisation history of the child;

10 ***immunisation record*** means a record or document referred to in subsection (2);

***vaccine preventable disease*** has the same meaning as in the *Australian Immunisation Register Act 2015* of the Commonwealth;

***young children*** means children under the age of 6 years.

15 (2) For the purposes of this Part, a child ***meets the immunisation requirements*** if—

- 20 (a) an immunisation history statement indicates that the immunisation status of the child is up to date; or
- (b) a document of a kind approved by the Chief Public Health Officer for the purposes of this subsection indicates that the child meets the immunisation requirements within the meaning of the *A New Tax System (Family Assistance) Act 1999* of the Commonwealth; or
- 25 (c) a certificate in writing issued by the Chief Public Health Officer indicates that the child meets the immunisation requirements.

**96B—Requirement to provide immunisation records**

30 (1) The parent or guardian of a child that is enrolled, is to be enrolled, or attends at premises for the purposes of the provision of an early childhood service must provide immunisation records relating to the child to the provider of the service in accordance with the requirements of the Chief Public Health Officer.

(2) Requirements of the Chief Public Health Officer made for the purposes of subsection (1)—

- 35 (a) must be published in the Gazette; and
- (b) may be varied, revoked or substituted by subsequent notice in the Gazette; and
- (c) may, without limitation, make provision in relation to—
- 40 (i) the times (such as the relevant ages of a child) at which documents must be provided under that subsection; and
- (ii) the currency of such documents.

- (3) A provider of an early childhood service must keep a copy of all immunisation records provided to the provider under subsection (1) in respect of each child enrolled for the provision of the service.

Maximum penalty: \$ 2 500.

5                   **96C—Prohibition on providing early childhood services to children not meeting immunisation requirements**

- (1) A person who provides an early childhood service must not enrol a child for the provision of the service and must suspend the existing enrolment of a child if—

- 10                   (a) immunisation records relating to the child have not been provided to the person in accordance with section 96B(1); or
- (b) the child does not, according to immunisation records provided in accordance with section 96B(1), meet the immunisation requirements.

15                   Maximum penalty: \$30 000.

- (2) A person must not provide an early childhood service to a child if—

- (a) immunisation records relating to the child have not been provided to the person in accordance with section 96B(1); or
- 20                   (b) the child does not, according to immunisation records provided in accordance with section 96B(1), meet the immunisation requirements.

Maximum penalty: \$30 000.

**96D—Requirement to provide information on outbreak of vaccine preventable disease**

- 25                   (1) The Chief Public Health Officer may, if satisfied that there is an outbreak, or a risk of an outbreak, of a vaccine preventable disease at premises at which early childhood services are provided, require the person with responsibility for providing the service at the premises to provide to the Chief Public Health Officer—

- 30                   (a) the name and date of birth of each child that is enrolled, or routinely attends, at the premises for the provision of an early childhood service; and
- (b) current immunisation records relating to each child referred to in paragraph (a) provided under section 96B(1); and
- 35                   (c) the contact details for a parent or guardian of each child referred to in paragraph (a); and
- (d) any other prescribed information.

- (2) Information required to be provided under subsection (1) must be provided to the Chief Public Health Officer within 1 business day after the request for the information.
- 40

- (3) A person who fails to comply with a requirement of the Chief Public Health Officer to provide information in accordance with this section is guilty of an offence.

Maximum penalty: \$30 000.

5                   **96E—Prohibition on providing early childhood services to  
                          certain children on outbreak of vaccine preventable disease**

- (1) The Chief Public Health Officer may, by notice in writing, direct that a specified child is excluded from attending at specified premises at which early childhood services are provided if satisfied that—

10                   (a) the child has been diagnosed with a vaccine preventable disease; or

                      (b) there is an outbreak of a specified vaccine preventable disease at the premises and the child would, if the child attended at the premises, be at a material risk of contracting the vaccine preventable disease.

- 15                   (2) For the purposes of subsection (1)(b), an outbreak of a vaccine preventable disease may (without limitation) exist at premises if 1 or more persons who routinely attend at the premises have been diagnosed with the specified vaccine preventable disease.

- 20                   (3) A direction of the Chief Public Health Officer under subsection (1)—

                      (a) remains in force for the period specified in the direction; and

                      (b) may be varied or revoked by the Chief Public Health Officer at any time by subsequent notice in writing.

- 25                   (4) A direction under subsection (1) in respect of a specified child and any subsequent variation or revocation of such a direction must be served on the person responsible for the provision of an early childhood service at the premises by—

                      (a) personal service on the person or an agent of the person; or

30                   (b) leaving it at the premises specified in the notice with a person apparently employed or engaged in the provision of an early childhood service; or

                      (c) email, fax or text message to an email address, fax number or telephone number known to be used by the person (in which case the direction will be taken to have been served at the time of transmission); or

35                   (d) if the person serving the notice has made a reasonable attempt to serve the direction under paragraphs (a), (b) and (c) but has been unsuccessful—affixing it to the premises at or near to the entrance of the premises.

5 (5) A copy of a direction under subsection (1) in respect of a specified child and any subsequent variation or revocation of such a direction must be given to a parent or guardian of the child by the Chief Public Health Officer as soon as is reasonably practicable after making the direction.

(6) For the avoidance of doubt, a child may be excluded from premises under this section irrespective of whether the child meets the immunisation requirements or not.

10 (7) A person must not provide an early childhood service to a child at premises from which the child is excluded pursuant to a direction under subsection (1).

Maximum penalty: \$30 000.

### 96F—Exemptions

15 (1) The Chief Public Health Officer may, by notice in writing, grant an exemption from this Part or specified provisions of this Part—

(a) in relation to a specified child or children of a specified class; or

(b) to specified persons or persons of a specified class; or

20 (c) in relation to specified early childhood services or early childhood services of a specified class.

(2) An exemption under subsection (1) may—

(a) be subject to such conditions as the Chief Public Health Officer thinks fit; and

25 (b) apply for a specified period, until further notice or indefinitely; and

(c) vary according to the circumstances to which it is expressed to apply.

30 (3) The Chief Public Health Officer may, by subsequent notice in writing—

(a) vary or revoke an exemption;

(b) vary or revoke a condition of an exemption or attach new conditions to an exemption;

(c) vary the circumstances to which an exemption is expressed to apply.

35 (4) A person who contravenes or fails to comply with a condition of an exemption imposed under this section is guilty of an offence.

Maximum penalty: \$30 000.