

Australian Immunisation Register Amendment (Reporting) Act 2021

No. 1, 2021

An Act to amend the *Australian Immunisation Register Act 2015*, and for related purposes

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Australian Immunisation Register Amendment (Reporting) Act 2021

No. 1, 2021

An Act to amend the *Australian Immunisation Register Act 2015*, and for related purposes

[*Assented to 15 February 2021*]

The Parliament of Australia enacts:

1 Short title

This Act is the *Australian Immunisation Register Amendment (Reporting) Act 2021.*

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
| --- | --- | --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 15 February 2021 |
| 2. Schedule 1, Part 1 | The day after this Act receives the Royal Assent. | 16 February 2021 |
| 3. Schedule 1, Part 2 | The later of:  (a) immediately after the commencement of the provisions covered by table item 2; and  (b) immediately after the commencement of the *Federal Circuit and Family Court of Australia Act 202**1*.  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 1 September 2021  (paragraph (b) applies) |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Main amendments

Australian Immunisation Register Act 2015

1 Section 4

Insert:

***civil penalty provision*** has the same meaning as in the Regulatory Powers Act.

***provider identification information*** has the meaning given by section 5A.

***Regulatory Powers Act*** means the *Regulatory Powers (Standard Provisions) Act 2014*.

***Secretary*** means the Secretary of the Department.

2 After section 5

Insert:

5A Meaning of *provider identification information*

If a recognised vaccination provider administers a vaccine, or is given information about a relevant vaccination, at a place where the provider practices the provider’s profession, then each of the following is ***provider identification information*** for the provider:

(a) the provider’s name and contact details;

(b) if a number known as a provider number has been allocated by the Chief Executive Medicare to the provider in respect of that place—that number;

(c) if a number known as the AIR provider number has been allocated to the provider for the purposes of this Act—that number.

3 Section 6

After “liable to”, insert “a pecuniary penalty or to”.

4 Section 7

After:

The purposes of the register relate to supporting Australian vaccination programs, and vaccination matters more broadly.

insert:

Recognised vaccination providers are required to report certain information in relation to certain relevant vaccinations that have been administered. This information will be included in the register.

A recognised vaccination provider may be required to give information, or be given a formal warning, if the provider is not complying, or has not complied, with the requirement to report.

5 Subparagraphs 9(b)(iii) and (iv)

Omit “the name and contact details of”, substitute “provider identification information for”.

6 At the end of paragraph 9(d)

Add:

and (iv) if a number known as a provider number has been allocated by the Chief Executive Medicare to that general practitioner, paediatrician, public health physician, infectious diseases physician or clinical immunologist in respect of the place at which the assessment was conducted—that number;

7 After Division 2 of Part 2

Insert:

Division 2A—Reporting obligation etc.

10A Requirement to report information relating to certain relevant vaccinations

Relevant vaccination administered in Australia

(1) If:

(a) a recognised vaccination provider administers a relevant vaccination in Australia; and

(b) the relevant vaccination:

(i) is of a kind prescribed by the rules; and

(ii) is administered in the circumstances prescribed by the rules;

the provider must report, within the period prescribed by the rules and in the manner prescribed by the rules, the information prescribed by the rules for that vaccination for inclusion in the AI Register.

(2) Subsection (1) does not apply if the recognised vaccination provider reasonably believes that complying with that subsection is likely to pose a risk to the health or safety of an individual.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Relevant vaccination administered outside Australia

(3) If:

(a) a recognised vaccination provider is given information about a relevant vaccination that was administered outside Australia; and

(b) the relevant vaccination:

(i) is of a kind prescribed by the rules; and

(ii) was administered in the circumstances prescribed by the rules;

the provider must report, within the period prescribed by the rules and in the manner prescribed by the rules, the information prescribed by the rules for that vaccination for inclusion in the AI Register.

(4) Subsection (3) does not apply if the recognised vaccination provider reasonably believes that complying with that subsection is likely to pose a risk to the health or safety of an individual.

Note: A defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Civil penalty provision etc.

(5) A person is liable to a civil penalty if the person contravenes subsection (1) or (3).

Civil penalty: 30 penalty units.

(6) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (5) of this section.

10B Secretary may require recognised vaccination provider to give information

(1) If the Secretary reasonably believes that a recognised vaccination provider is not complying with subsection 10A(1) or (3), the Secretary may, by written notice, require the provider to give, within the period specified in the notice and in the manner specified in the notice, information relating to that non‑compliance.

(2) The period specified in the notice must not be shorter than 14 days after the notice is given.

(3) A person is liable to a civil penalty if the person fails to comply with a notice given to the person under subsection (1).

Civil penalty: 30 penalty units.

10C Secretary may give formal warning to recognised vaccination provider

If the Secretary reasonably believes that a recognised vaccination provider may have contravened subsection 10A(1) or (3), the Secretary may, by written notice given to the provider:

(a) inform the provider of that matter; and

(b) warn the provider that the provider may be liable to a civil penalty under subsection 10A(5).

8 Paragraph 12(1)(a)

Omit “providing”, substitute “reporting”.

9 Subparagraph 12(1)(b)(iii)

Omit “providing”, substitute “reporting”.

10 Section 28

After “such as”, insert “civil penalties,”.

11 After section 28

Insert:

28A Civil penalty provisions

Enforceable civil penalty provisions

(1) Each civil penalty provision of this Act is enforceable under Part 4 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision.

Authorised applicant

(2) For the purposes of Part 4 of the Regulatory Powers Act, each of the following persons is an authorised applicant in relation to the civil penalty provisions of this Act:

(a) the Secretary;

(b) an SES employee, or an acting SES employee, in the Department.

Relevant court

(3) For the purposes of Part 4 of the Regulatory Powers Act, each of the following courts is a relevant court in relation to the civil penalty provisions of this Act:

(a) the Federal Court of Australia;

(b) the Federal Circuit Court of Australia;

(c) a court of a State or Territory that has jurisdiction in relation to the matter.

12 Before subsection 30(1)

Insert:

Delegation by the Minister

13 At the end of section 30

Add:

Delegation by the Secretary

(4) The Secretary may, in writing, delegate the Secretary’s functions or powers under section 10B or 10C of this Act to an SES employee, or an acting SES employee, in the Department.

(5) In performing a function, or exercising a power, under a delegation, the delegate must comply with any directions of the Secretary.

Part 2—Contingent amendments

Australian Immunisation Register Act 2015

14 Paragraph 28A(3)(b)

Repeal the paragraph, substitute:

(b) the Federal Circuit and Family Court of Australia (Division 2);

[*Minister’s second reading speech made in—*

*House of Representatives on 3 December 2020*

*Senate on 4 February 2021*]

(168/20)