

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Social Services

A New Tax System (Family Assistance) Act 1999

*Family Assistance (Immunisation Principles and Vaccination Schedules) (DSS)
Amendment Determination 2024*

Purpose

The purpose of this instrument is to amend the Family Assistance (Immunisation Principles and Vaccination Schedules) (DSS) Determination 2018 (Determination) to provide a new vaccination schedule for children born on or after 1 July 2024, for the purposes of the immunisation requirements for Family Tax Benefit (FTB).

Background

Under section 61B of the *A New Tax System (Family Assistance) Act 1999* (the Act), an individual's FTB child rate in relation to an FTB child is reduced if the child does not meet the immunisation requirements set out in section 6 of the Act.

Vaccination Schedules

Section 6 of the Act provides the immunisation requirements that an FTB child must meet for the full entitlement of FTB to be paid to an individual in respect of that child. One of the ways in which a child meets the immunisation requirements is if the child has been immunised.

Immunised is defined in subsection 3(1) of the Act as meaning immunised in accordance with a standard or catch up vaccination schedule determined under section 4 of the Act. Under section 4 of the Act, the Minister must, by legislative instrument, determine one or more of each of those schedules. The Determination determines standard vaccination schedules and catch up vaccination schedules for the purposes of section 4 of the Act.

This instrument makes amendments to the Determination to reflect changes made to the National Health (Immunisation Program – Designated Vaccines) Determination 2014 (No. 1). These amendments require vaccination against Meningococcal Groups A, C, W-135 and Y at 12 months of age for children born on or after 1 July 2024 to meet the immunisation requirements in section 6 of the Act.

The Determination applies for the purposes of working out a person's rate of FTB. Under the Administrative Arrangements Order, dated 13 October 2022, the Minister for Education is responsible for administering the Act insofar as it relates to childcare payments. As such, the Minister for Education is responsible for determining vaccination schedules for those payments. This instrument does not affect a determination made by the Minister for Education.

Authority

This instrument is made under subsection 4(1) of the Act, as construed in accordance with the *Acts Interpretation Act 1901*.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make any instrument of a legislative or administrative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to amend or vary such instrument.

Commencement

The instrument commences on the day after it is registered.

Consultation

The Department of Education, Services Australia and the Department of Health and Aged Care were consulted in the preparation of this instrument.

Impact Analysis Statement

The Department of Social Services consulted with the Office of Impact Analysis who confirmed a detailed Impact Analysis is not required under the Australian Government's Policy Impact Analysis Framework (OIA ID: OIA24-07500). The instrument is not likely to have more than a minor impact on people, businesses or community organisations.

Explanation of the provisions

Section 1

This section provides how the instrument is to be cited, that is, as the *Family Assistance (Immunisation Principles and Vaccination Schedules) (DSS) Amendment Determination 2024*.

Section 2

This section provides that the instrument commences the day after it is registered.

Section 3

This section provides that the instrument is made under subsection 4(1) of the *A New Tax System (Family Assistance) Act 1999*.

Section 4

Section 4 provides that each instrument specified in a Schedule to the instrument is amended or repealed as set out in the Schedule concerned, and any other item in a Schedule to the instrument has effect according to its terms.

Schedule 1 – Family Assistance (Immunisation Principles and Vaccination Schedules) (DSS) Determination 2018

This Schedule amends the Family Assistance (Immunisation Principles and Vaccination Schedules) (DSS) Determination 2018.

Item 1

Item 1 repeals note 2 of subsection 8(1) to insert the updated location for the Australian Immunisation Handbook, which is incorporated by reference to the Determination.

Item 2

Item 2 inserts “and before 1 July 2024” to the cell at the table item dealing with children born on or after 1 January 2017 in subsection 15(1). The purpose of this is to specify that, for a child born on or after 1 January 2017 and before 1 July 2024, the standard vaccination schedule for the child is set out in Schedule 4.

Item 3

Item 3 adds a new table item dealing with children born on or after 1 July 2024 in subsection 15(1). The new table item specifies that the standard vaccination schedule for a child born on or after 1 July 2024 is set out in new Schedule 5.

Item 4

Item 4 amends section 16 to provide that the catch up vaccination schedule for a child relates to the antigens and diseases mentioned in column 3 of the Schedules 1 to 5, that is, the existing Schedules and new Schedule 5.

Item 5

Item 5 repeals note 1 in section 16 to insert the updated location for the Australian Immunisation Handbook, which is incorporated by reference to the Determination.

Item 6

Item 6 adds “and before 1 July 2024” to the heading of Schedule 4, reflecting changes made by item 2. Schedule 4 now sets out the standard vaccination schedule for a child born on or after 1 January 2017 and before 1 July 2024.

Item 7

Item 7 inserts the new Schedule 5. New Schedule 5 sets out the standard vaccination schedule for a child born on or after 1 July 2024. The new Schedule 5 sets out the new requirement for vaccination for Meningococcal Groups A, C, W-135 and Y at 12 months of age. This is an expansion from the Schedule 4 Meningococcal requirements, which only relate to Meningococcal Group C. New Schedule 5 aligns the Determination with vaccines available under the National Health (Immunisation Program – Designated Vaccines) Determination 2014 (No. 1).

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Family Assistance (Immunisation Principles and Vaccination Schedules) (DSS) Amendment Determination 2024

This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Amendment Determination

The purpose of this instrument is to amend the Family Assistance (Immunisation Principles and Vaccination Schedules) (DSS) Determination 2018 (Determination) to provide a new vaccination schedule for children born on or after 1 July 2024, for the purposes of the immunisation requirements for Family Tax Benefit (FTB).

Under section 61B of the *A New Tax System (Family Assistance) Act 1999* (the Act), an individual's FTB child rate in relation to an FTB child is reduced if the child is an FTB child of the individual or the individual's partner; and the child does not meet the immunisation requirements set out in section 6 of the Act.

This instrument makes amendments to the Determination to reflect changes made to the National Health (Immunisation Program – Designated Vaccines) Determination 2014 (No. 1). These amendments require vaccination against Meningococcal Groups A, C, W-135 and Y at 12 months of age for children born on or after 1 July 2024 to meet the immunisation requirements in section 6 of the Act.

Human rights implications

This instrument engages the following human rights:

- the right to health recognised in Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 24 of the Convention on the Rights of the Child (CRC); and
- the right to social security in Article 9 of the ICESCR and Article 26 of the CRC.

The right to health in Article 12 of the ICESCR requires the recognition of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. In particular, countries should make provision for the healthy development of the child and the prevention, treatment and control of epidemic, endemic, occupational and other diseases. Article 24 of the CRC also contains specific obligations to ensure that children enjoy the highest attainable standard of health.

Article 9 of the ICESCR recognises the right of everyone to social security, and Article 26 of the CRC recognises the right of every child to benefit from social security.

FTB is one measure that implements Article 9 of the ICESCR and Article 26 of the CRC in Australia. The Act includes immunisation requirements as a condition of eligibility for the full rate of FTB for the purpose of protecting the health of the public through increasing national immunisation rates and protecting both children and those in the community more broadly from the spread of disease. The Determination continues to allow for the Secretary to make a determination in accordance with the immunisation principles that a child meets the immunisation requirements even if their child has not been immunised in accordance with the vaccination schedules. Where the immunisation requirements are not met, FTB is still payable at a reduced rate. In doing so, the amendments in this instrument limit the right to social security in a necessary and proportionate manner to supporting the rights to health set out in Article 12 of the ICESCR and Article 24 of the CRC.

Conclusion

This instrument is compatible with human rights as it promotes rights and, to the extent that it may limit rights, any limitations are reasonable, necessary and proportionate to achieving a legitimate aim.

Minister for Social Services, the Honourable Amanda Rishworth MP