

PUBLIC HEALTH (AMENDMENT) ACT 1992 No. 110

NEW SOUTH WALES



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PUBLIC HEALTH (AMENDMENT) ACT 1992 No. 110

NEW SOUTH WALES



Act No. 110, 1992

An Act to amend the Public Health Act 1991 for the purpose of controlling certain preventable diseases and for other purposes; and to consequentially amend the Education Reform Act 1990. [Assented to 8 December 1992]

Public Health (Amendment) Act 1992 No. 110

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Public Health (Amendment) Act 1992.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Public Health Act 1991 No. 10

3. The Public Health Act 1991 is amended as set out in Schedules 1 and 2.

Consequential amendment of Education Reform Act 1990 No. 8

4. Section 23 of the Education Reform Act 1990 is amended by inserting after subsection (3) (b) the following paragraph:
 - (b1) the child was prevented from attending school because, at the relevant time, the child was excluded from the school under section 42D of the Public Health Act 1991; or

**SCHEDULE 1—AMENDMENTS RELATING TO THE
CONTROL OF VACCINE PREVENTABLE DISEASES**

(Sec. 3)

Part 3A:

After Part 3, insert:

**PART 3A—CONTROL OF VACCINE
PREVENTABLE DISEASES**

Definitions

42A. In this Part:

“**child**” means a child of a class (such as children of a specified age group) prescribed by the regulations;

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF VACCINE PREVENTABLE DISEASES— *continued*

“child at risk”, in relation to a vaccine preventable disease, means a child enrolled at a school or child care facility for whom no immunisation certificate or evidence of immunisation has been lodged or produced to the principal of the school or director of the facility which shows that the child has been immunised against, or has acquired immunity by infection from, the disease;

“child care facility” means:

- (a) a child care service to which Division 1 of Part 3 of the Children (Care and Protection) Act 1987 applies; or
- (b) a service or facility of a class declared by the regulations to be a child care facility for the purposes of this Part;

“director” of a child care facility means the person in charge of the facility;

“immunisation” means the process of administering to a person, either orally or parenterally, a substance registered as a vaccine in the part of the Australian Register of Therapeutic Goods maintained under section 17 of the Therapeutic Goods Act 1989 of the Commonwealth relating to registered goods;

“immunisation certificate” means a certificate in the approved form in which a medical practitioner, or a person of a class specified by the Director-General, certifies the immunisation status of a child, and includes a photocopy or a duplicate of such a certificate;

“immunisation status” of a child means whether or not the child has been immunised against, or has acquired immunity by infection from, all or specified vaccine preventable diseases;

“parent” of a child includes a guardian or other person having the care or custody of the child;

“school” means:

- (a) a government school established under the Education Reform Act 1990; or
- (b) a non-government school registered under that Act;

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF VACCINE PREVENTABLE DISEASES—*continued*

“vaccine preventable disease” means measles, diphtheria, whooping cough, poliomyelitis, tetanus, mumps, rubella or any other disease specified in the regulations as a vaccine preventable disease for the purposes of this Part.

Responsibilities of principals of schools with respect to immunisation

42B. (1) When a child is being enrolled at a school, the principal of the school must request a parent of the child to lodge with the principal an immunisation certificate for the child, unless satisfied that the certificate can be obtained under subsection (2).

(2) If an immunisation certificate has been lodged with the principal of a school in respect of a child and the child has subsequently become enrolled at another school, the principal must, on being requested to do so by a parent of the child or the principal of the other school, forward the certificate to the principal of the other school.

(3) The principal of a school must record in the approved manner the immunisation status of each child enrolled at the school as indicated by any immunisation certificate lodged with the principal in respect of the child.

(4) For the purposes of recording the immunisation status of a child for whom no immunisation certificate has been lodged with a principal, the child is taken not to have been immunised against any of the vaccine preventable diseases.

(5) A principal must retain an immunisation certificate lodged with the principal in safe custody for such period as may be prescribed by the regulations.

(6) The medical officer of health for a medical district may, at any reasonable time:

- (a) enter any school located in the district; and
- (b) request the principal of the school to produce the immunisation certificates and records required by this section to be kept by the principal.

A principal must comply with such a request.

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF VACCINE PREVENTABLE DISEASES— *continued***Responsibilities of directors of child care facilities with respect to immunisation**

42C. (1) When a child is being enrolled at a child care facility, and on such subsequent occasions as may be prescribed by the regulations, the director of the facility must request a parent of the child to produce to the director evidence as to the child's immunisation status, unless satisfied that the evidence can be obtained under subsection (2). The evidence to be produced under this subsection must be in an approved form.

(2) If the director of a child care facility has recorded in the register under this section the immunisation status of the child and the child has subsequently become enrolled at another child care facility, the director must, on being requested to do so by a parent of the child or the director of the other child care facility, provide that director with a copy of the entry in the register relating to the immunisation status of the child.

(3) The director of a child care facility must record in a register, kept in the approved manner, the immunisation status of each child enrolled at the facility as indicated by evidence produced in an approved form to the director in respect of the child.

(4) For the purposes of recording the immunisation status of a child for whom no evidence is produced to the director in an approved form, the child is taken not to have been immunised against any of the vaccine preventable diseases.

(5) The director of a child care facility must retain an entry in the register for such period as may be prescribed by the regulations.

(6) The medical officer of health for a medical district may, at any reasonable time:

- (a) enter any child care facility located in the district; and
- (b) request the director of the facility to produce the register required by this section.

A director must comply with such a request.

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF VACCINE PREVENTABLE DISEASES—*continued***Duties of principals and directors when there is an outbreak of a vaccine preventable disease**

42D. (1) The principal of a school, or the director of a child care facility, must, on becoming aware that a child enrolled at the school or facility is suffering from a vaccine preventable disease, inform the medical officer of health for the medical district where the school or facility is located that the child is suffering from the disease.

(2) On being informed that a child is suffering from a vaccine preventable disease, a medical officer of health may, for the purpose of preventing the spread of the disease, direct the principal of the school, or the director of the child care facility, at which the child is enrolled to do either or both of the following:

- (a) to send or deliver to the parent of the child, and of every child at risk who is enrolled at the school or facility, a notice to the effect that, unless the requirements specified in the notice are complied with in respect of that parent's child within the period so specified, that child is to be excluded from the school or facility for the duration of the outbreak of the disease (as determined by that medical officer);
- (b) to take such other action with respect to the child suffering from the disease and the children at risk as may be specified in the direction.

(3) In giving a direction under subsection (2), a medical officer of health must comply with such guidelines as may be issued from time to time by the Director-General.

(4) On receiving a direction under subsection (2), the principal or director must comply with the direction.

(5) A principal who has sent or delivered a notice referred to in subsection (2) (a) must ensure that the child to whom the notice relates is excluded from the school or child care facility concerned for the duration of the outbreak of the disease (as determined by the medical officer of health concerned), unless the requirements specified in the notice have been complied with within the period so specified.

SCHEDULE 1—AMENDMENTS RELATING TO THE CONTROL
OF VACCINE PREVENTABLE DISEASES— *continued*

(6) Subsections (1) and (2) do not apply when the school or child care facility is closed for a public holiday or vacation, unless the school or facility would reopen before the end of the duration of the outbreak of the disease (as determined by the medical officer of health concerned).

(7) A member of the staff of a school or child care facility must not, except as provided by this section, subject a child who attends or is seeking to attend the school or facility to any detriment because of the child's immunisation status.

SCHEDULE 2—MISCELLANEOUS AMENDMENTS

(Sec. 3)

(1) Section 3 (**Definitions**):

- (a) From section 3 (1), omit the definition of “approved form”, insert instead:

“**approved**” means approved by the Minister;

- (b) From paragraph (d) of the definition of “environmental health officer” in section 3 (1), omit “1929;”, insert instead:

1929,

and also means a health surveyor employed by a local authority;

- (c) From section 3 (1), omit the definition of “still-birth”, insert instead:

“**still-birth**” means the birth of a child:

- (a) who weighed at least 400 grams at delivery or, if the weight at delivery was unknown, was of at least 20 weeks' gestation; and
(b) who has not breathed since delivery; and
(c) whose heart has not beaten since delivery.

(2) Section 6 (**Disinfection or destruction of articles**):

Omit section 6 (1) (a), insert instead:

- (a) has been in contact with a person suffering from an infectious disease that is transmissible by contact with the article; or

SCHEDULE 2—MISCELLANEOUS AMENDMENTS— *continued*

(3) Section 7 (**Closure of water supply**):

Omit section 7 (1) (b), insert instead:

- (b) the Minister suspects on reasonable grounds that a risk to public health has arisen or is likely to arise because of the water.

(4) Section 14 (**Medical practitioner to notify certain scheduled medical conditions**):

At the end of section 14 (2) (c), insert:

; and

- (d) in so far as it is within the medical practitioner's ability to do so, provide the Director-General with any information requested by the Director-General as to the medical condition from which the person is or was suffering, not including information that the medical practitioner is prohibited by section 17 from disclosing.

(5) Section 16 (**Notification of test results—Category 3 medical condition**):

At the end of section 16, insert:

(3) A medical practitioner who requests a person to carry out a test referred to in subsection (1) (a) must provide the person with sufficient information to enable the person to comply with subsection (1).

(4) A medical practitioner who, without reasonable excuse, fails to comply with subsection (3) within the prescribed period is guilty of an offence.

Maximum penalty: 50 penalty units.

(6) Section 62A:

After section 62, insert:

Appointment of acting medical officers of health

62A. (1) The Director-General:

- (a) may, from time to time, appoint a medical practitioner to act as a medical officer of health during the illness or absence of the officer or while there is a vacancy in the office of such an officer; and
- (b) may, at any time, terminate the appointment.

SCHEDULE 2—MISCELLANEOUS AMENDMENTS— *continued*

(2) A medical practitioner has, while acting as a medical officer of health, all the functions of the officer and is to be regarded as the officer.

(7) Section 65 (**Inspection of premises**):

- (a) In section 65 (1), after “any premises”, insert “and may make inquiries of any person found on the premises”.
- (b) From section 65 (2), omit “the power of entry and inspection conferred”, insert instead “any entry on premises for the purposes of this section and to any inspection or other action that is authorised”.

(8) Section 82 (**Regulations**):

- (a) From section 82 (2) (a), omit “scheduled medical conditions”, insert instead “risks to public health”.
- (b) After section 82 (2) (c), insert:
 - (c1) the closure of public swimming pools and public spas for any period during which they are a risk to public health;

*[Minister's second reading speech made in—
Legislative Assembly on 18 November 1992
Legislative Council on 27 November 1992]*