



New South Wales

# Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Regulation 2013

under the

Public Health Act 2010

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Health Act 2010*.

JILLIAN SKINNER, MP  
Minister for Health

## Explanatory note

The object of this Regulation is to amend the *Public Health Regulation 2012* as a consequence of the *Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Act 2013* (the **Amendment Act**). In particular, this Regulation:

- (a) extends the class of children to which the provisions of the *Public Health Act 2010* (**the Act**) relating to vaccination (Division 4 of Part 5) will apply to children whose enrolment at a child care facility is sought, and
- (b) prescribes certain registered nurses and midwives for the purposes of the definition of **authorised practitioner** in Division 4 of Part 5 of the Act (as amended by the Amendment Act) to enable such nurses and midwives to provide immunisation certificates, and
- (c) provides for the circumstances in which a principal of a child care facility will be exempt from the requirement to be provided, before enrolling a child at the facility, with a certificate relating to the immunisation of the child, and
- (d) updates certain cross references to the Act.

This Regulation is made under the *Public Health Act 2010*, including sections 85 (definitions of **authorised practitioner** and **child**), 87 and 134 (the general regulation-making power).

## **Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Regulation 2013**

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### **1 Name of Regulation**

This Regulation is the *Public Health Amendment (Vaccination of Children Attending Child Care Facilities) Regulation 2013*.

### **2 Commencement**

This Regulation commences on 1 January 2014 and is required to be published on the NSW legislation website.

## Schedule 1 Amendment of Public Health Regulation 2012

### [1] Clauses 42 and 42A

Omit clause 42. Insert instead:

#### **42 Children to whom Division 4 of Part 5 of Act applies**

For the purposes of the definition of *child* in section 85 (1) of the Act, the following classes of children are prescribed:

- (a) children whose enrolment at a child care facility is sought,
- (b) children who are, or who previously were, enrolled at a child care facility,
- (c) children who are enrolled at a primary school.

#### **42A Authorised practitioners**

For the purposes of the definition of *authorised practitioner* in section 85 (1) of the Act, registered nurses, and midwives, who are employed in connection with a vaccination program in a health service or place of work and have successfully completed any of the following are prescribed:

- (a) the Department of Health's Immunisation Accreditation Program for Registered Nurses,
- (b) the immunisation education program administered by the Australian College of Nursing or its predecessors,
- (c) an interstate or overseas immunisation education program that conforms to the *National Guidelines for Immunisation Education for Registered Nurses and Midwives*, as approved by the Australian College of Nursing.

### [2] Clause 43 Immunisation certificates and evidence of immunisation status

Omit "section 87 (1)" from clause 43 (2). Insert instead "section 87 (4)".

### [3] Clause 43 (2)

Omit "produce to the principal evidence in the approved form as to the child's immunisation status".

Insert instead "provide an updated certificate of a kind required to be produced under that subsection".

### [4] Clause 44 Period for which immunisation certificates and register entries are to be retained

Omit "section 87 (4)" from clause 44 (2). Insert instead "section 87 (6)".

### [5] Clause 44 (2)

Omit "forward the certificate under section 87 (2)".

Insert instead "provide a copy of the certificate under section 87 (7)".

**[6] Clause 44A**

Insert after clause 44:

**44A Exemptions from pre-enrolment requirements relating to child care facilities**

- (1) For the purposes of section 87 (3) of the Act, the principal of a child care facility is not required to comply with section 87 (1) of the Act before enrolling, or permitting the enrolment of, a child at the child care facility if:
  - (a) the child is enrolled in a primary school, or
  - (b) the child has been placed in out-of-home care as a matter of emergency, or
  - (c) the child is being cared for by an adult who is not the child's parent due to exceptional circumstances such as illness or incapacity, or
  - (d) the child has been evacuated from the child's place of residence because it is in a part of the State in which a state of emergency is declared to exist under the *State Emergency and Rescue Management Act 1989*.
- (2) However, in the case of a child referred to in subclause (1) (b), (c) or (d), the principal of a child care facility must take all reasonable steps to ensure that the parent of the child, or the principal of another child care facility, provides the certificate or certificates referred to in section 87 (1) of the Act, in respect of the child, within 12 weeks after the date on which the child is enrolled in the facility.