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## Public Health (Exclusion of Unvaccinated Children from Child Care) Amendment Bill 2013

### Explanatory Notes for the Public Health (Exclusion of Unvaccinated Children from Child Care) Amendment Bill 2013

#### **Title of the Bill**

*Public Health (Exclusion of Unvaccinated Children from Child Care) Bill 2013*

#### **Objectives of the Bill**

The object of this Bill is to give a person in charge of an education and care service or child care service the option to refuse to allow children who are not fully immunised to enrol in the child care facility or to participate in particular activities or services provided by the facility.

The key features of the scheme are:

- (a) the person in charge of an education and care service or child care service will be required to give parents the opportunity to have the child vaccinated before the refusal can take effect, and
- (b) the changes will not be compulsory, the person in charge of an education and care service or child care service will have the option to exercise them, and
- (c) the person in charge of an education and care service or child care service will not be able to refuse entry or services to a child who cannot be vaccinated for valid medical reasons, and
- (d) the changes apply only to child care facilities (including pre-schools and kindergartens) and not to primary or secondary schools.

#### **Alternative Ways of Achieving Policy Objectives**

Legislation is the only way of providing the appropriate protections that are required to ensure that these objectives are achieved.

#### **Consistency with Fundamental Legislative Principles**

The legislation is consistent with fundamental legislative principles.

#### **Estimated Cost for Government Implementation**

There will be no costs associated with implementation of the Bill.

## **Consultation**

Consultation has been undertaken with the New South Wales Opposition Office on the drafting of the Bill. Further consultation on the draft Bill will be conducted with the early childhood sector and the public after introduction.

## **Notes on Provisions**

### **Part 1 Preliminary**

#### **Short Title**

Clause 1 provides for the short title of the Act.

#### **Commencement**

Clause 2 provides for the date of commencement of the Act.

#### **Act as amended**

Clause 3 sets out that Part 2 amends the *Public Health Act 2005*.

### **Part 2 (Amendment of Public Health Act 2005)**

Amendment of s 158 (Definitions for ch 5)

Clause 4 inserts new definitions in section 158 of the Act which apply to Chapter 5 of the Act. The following definitions are inserted: *due day*; *exclusion actions*; *exemption certificate*; *unvaccinated child*; *vaccinated child*; and *vaccination certificate*.

Amendment of Chapter 5, Part 2

Clause 5 inserts a new *Division 1AA* in Chapter 5 Part 2 of the Act, which is entitled *Exclusion of unvaccinated children from particular services*. and allows for a person in charge of an education and care service or child care service to take certain actions on the ground that a child is an unvaccinated child.

Section 160A provides that a person in charge of an education and care service or child care service may take exclusion action.

Section 160B provides that written notice must be given to parents before any proposed exclusion action can be taken.

Section 160C provides the circumstances under which an exclusion action may be taken.

Amendment of s 179 (Protection for persons acting under pt 2)

Clause 6 amends section 179(1) to extend the protection provided under this Part to a person in charge of an education and care service or child care service who takes *exclusion action in relation to a child in accordance with Division 1AA*.