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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As passed by both Houses

Australian Immunisation Register Bill 2015

No. , 2015

**A Bill for an Act to establish and provide for an
immunisation register, and for related purposes**

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1 **A Bill for an Act to establish and provide for an**
2 **immunisation register, and for related purposes**

3 The Parliament of Australia enacts:

4 **Part 1—Preliminary**
5

6 **1 Short title**

7 This Act may be cited as the *Australian Immunisation Register Act*
8 2015.

9 **2 Commencement**

10 (1) Each provision of this Act specified in column 1 of the table
11 commences, or is taken to have commenced, in accordance with
12 column 2 of the table. Any other statement in column 2 has effect
13 according to its terms.
14

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Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	1 January 2016.	1 January 2016

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

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

7 **3 Simplified outline of this Act**

8 This Act establishes a register of information about vaccinations.
9 The purposes of the register relate to:
10 (a) supporting vaccination programs for young individuals;
11 and
12 (b) vaccination matters more broadly.
13 Sensitive information in the register is protected.

14 **4 Definitions**

15 In this Act:

16 *ACI register* means the Australian Childhood Immunisation
17 Register.

18 *approved form* means a form approved under subsection 29(1).

19 *arrangement* includes a contract or deed.

20 *Chief Executive Medicare* has the same meaning as in the *Human*
21 *Services (Medicare) Act 1973*.

22 *commercial-in-confidence* has the meaning given by section 5.

Section 4

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family assistance has the same meaning as in the *A New Tax System (Family Assistance) Act 1999*.

general practitioner has the same meaning as in the *Health Insurance Act 1973*.

parent: without limiting who is a parent of anyone for the purposes of this Act, a person is the **parent** of another person if the other person is a child of the person within the meaning of the *Family Law Act 1975*.

personal information has the same meaning as in the *Privacy Act 1988*.

prescribed body means a person prescribed by the rules for the purposes of this definition.

protected information means personal information, relevant identifying information or information that is commercial-in-confidence, to the extent that this information:

- (a) is obtained under, or in accordance with, this Act; or
- (b) is derived from a record of information that was made under, or in accordance with, this Act; or
- (c) is derived from a disclosure or use of information that was made under, or in accordance with, this Act.

purposes of the ACI register means the purposes set out in section 10.

recognised vaccination provider means:

- (a) a general practitioner; or
- (b) an individual, or body, endorsed to administer vaccines in Australia, if the endorsement:
 - (i) is for purposes that include the purposes of the ACI register; and
 - (ii) is by the Commonwealth, a State or a Territory.

relevant identifying information for an individual means the following:

- (a) the individual's name, contact details, date of birth, gender and Indigenous status;

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- 1 (b) the individual's medicare number (within the meaning of
2 Part VII of the *National Health Act 1953*) (if any);
3 (c) the individual's healthcare identifier (within the meaning of
4 the *Healthcare Identifiers Act 2010*) (if any);
5 (d) the name and contact details of a parent or guardian of the
6 individual if the individual is incapable of managing his or
7 her health affairs;
8 (e) any other information of a kind prescribed by the rules for the
9 purposes of this definition that identifies the individual.

10 **relevant vaccination** means a vaccination administered:

- 11 (a) in Australia; or
12 (b) outside Australia, if information about the vaccination is
13 given to a recognised vaccination provider.

14 **rules** means the rules made under section 31.

15 **vaccine preventable disease** means a disease listed as a vaccine
16 preventable disease in the latest edition of the Australian
17 Immunisation Handbook published by the Government Printer.

18 Note: The Handbook could in 2015 be viewed on the Department's website
19 ([http://www.immunise.health.gov.au/internet/immunise/
20 publishing.nsf/Content/Handbook10-home](http://www.immunise.health.gov.au/internet/immunise/publishing.nsf/Content/Handbook10-home)).

21 **young individual** means an individual under the age of 20 years.

22 **5 Meaning of *commercial-in-confidence***

23 Information is ***commercial-in-confidence*** if a person demonstrates
24 to the Minister that:

- 25 (a) release of the information would cause competitive detriment
26 to the person; and
27 (b) the information is not in the public domain; and
28 (c) the information is not required to be disclosed under a law of
29 the Commonwealth, or of a State or Territory; and
30 (d) the information is not readily discoverable.

1 **6 Act binds the Crown**

2 This Act binds the Crown in each of its capacities. However, it
3 does not make the Crown liable to be prosecuted for an offence.

1 **Part 2—Australian Childhood Immunisation**
2 **Register**

3 **Division 1—Simplified outline**

4 **7 Simplified outline of this Part**

5 The Australian Childhood Immunisation Register is established to
6 keep information about vaccinations of young individuals.

7 The purposes of the register relate to:

- 8 (a) supporting vaccination programs for young individuals;
9 and
10 (b) vaccination matters more broadly.

11 Individuals can opt out from receiving certain information from the
12 register. They can also request for their information in the register
13 not to be disclosed for certain purposes.

14 Payments relating to vaccinations may be made on behalf of the
15 Commonwealth.

1 **Division 2—Establishment, contents and purposes**

2 **8 Establishment of the register**

- 3 (1) The Commonwealth must establish and keep a register to be called
4 the Australian Childhood Immunisation Register.
- 5 (2) Parts of the register may be kept separate from each other.
- 6 (3) The register is not a legislative instrument.

7 **9 Contents of the register**

8 The ACI register may include the following:

- 9 (a) relevant identifying information for each young individual
10 who has, or could have, a relevant vaccination;
- 11 (b) information about each of those vaccinations, including:
12 (i) the day of the vaccination; and
13 (ii) information about the vaccine administered; and
14 (iii) if the vaccine was administered in Australia—the name
15 and contact details of the recognised vaccination
16 provider who administered the vaccine; and
17 (iv) if the vaccine was administered outside Australia—the
18 name and contact details of the recognised vaccination
19 provider who has been given information about the
20 vaccination;
- 21 (c) relevant identifying information for each young individual
22 who is assessed by a general practitioner as:
23 (i) not requiring a vaccination because the young
24 individual has contracted a disease or diseases, and as a
25 result has developed a natural immunity; or
26 (ii) having a medical contraindication to a vaccine, and as a
27 result should not receive a vaccination;
- 28 (d) information about each of those assessments, including:
29 (i) the day of the assessment; and
30 (ii) information about the vaccine relevant to the
31 assessment; and

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- 1 (iii) the name and contact details of the general practitioner
2 who conducted the assessment;
3 (e) other information relating to vaccinations of young
4 individuals.

5 **10 Purposes of the register**

- 6 (1) The purposes of the ACI register are to facilitate the following:
7 (a) establishing and keeping an electronic database of records
8 relating to vaccinations of young individuals;
9 (b) collecting, analysing and publishing statistics, and other
10 information, about vaccination coverage across Australia and
11 parts of Australia;
12 (c) monitoring vaccination coverage across Australia and parts
13 of Australia;
14 (d) monitoring the effectiveness of vaccines and vaccination
15 programs in preventing vaccine preventable diseases;
16 (e) identifying any parts of Australia at risk during disease
17 outbreaks because of the number of unvaccinated young
18 individuals in those parts;
19 (f) checking a young individual's vaccination status by that
20 individual or by a recognised vaccination provider;
21 (g) checking a young individual's vaccination status:
22 (i) by (or on behalf of) the Commonwealth; and
23 (ii) to the extent that this is necessary for determining
24 eligibility for family assistance;
25 (h) advising a young individual when he or she is, or was, due to
26 receive doses of a vaccine;
27 (i) certifying when a course of vaccination has been completed;
28 (j) promoting young individuals' health and well-being by
29 giving information on new developments associated with
30 vaccinations to them and to recognised vaccination providers;
31 (k) payments relating to vaccinations;
32 (l) research relating to vaccinations;
33 (m) anything incidental to any of the above paragraphs.
34 (2) For a young individual who is incapable of managing his or her
35 health affairs:

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- 1 (a) paragraph (1)(f) also applies to checking of the young
2 individual's vaccination status by a parent or guardian of the
3 young individual; and
4 (b) paragraphs (1)(h), (i) and (j) also apply to advising, or giving
5 a certificate or information to, a parent or guardian of the
6 young individual.

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1 **Division 3—Requests about personal information in the**
2 **register**

3 **11 Requests about personal information in the register**

- 4 (1) An individual may, in the approved form, request that the
5 individual not be given by (or on behalf of) the Commonwealth:
6 (a) any advice of a kind referred to in paragraph 10(1)(h); or
7 (b) any certification of a kind referred to in paragraph 10(1)(i);
8 or
9 (c) any information of a kind referred to in paragraph 10(1)(j).

10 Note: The request could be made by a parent or guardian of a young
11 individual who is incapable of managing his or her health affairs (see
12 subsection 10(2)).

- 13 (2) An individual may, in the approved form, request that personal
14 information on the ACI register relating to or identifying:
15 (a) the individual; or
16 (b) if the individual is a parent or guardian of a young individual
17 who is incapable of managing his or her health affairs—that
18 young individual;
19 not be disclosed from the ACI register for one or more purposes of
20 the ACI register.
- 21 (3) The Commonwealth must comply with a request under this section
22 as soon as practicable.

1 **Division 4—Payments relating to the register**

2 **12 Payments relating to vaccinations**

- 3 (1) The Minister may, on behalf of the Commonwealth, make a
4 payment to a recognised vaccination provider in relation to:
5 (a) the provider's administrative costs incurred in providing
6 information for inclusion in the ACI register; or
7 (b) the provider:
8 (i) identifying a young individual who is overdue for a
9 relevant vaccination; and
10 (ii) administering the vaccination; and
11 (iii) providing information about the vaccination for
12 inclusion in the ACI register.
- 13 (2) The Minister may, on behalf of the Commonwealth, make a
14 payment:
15 (a) for the purposes of the ACI register; and
16 (b) in circumstances of a kind prescribed by the rules for the
17 purposes of this subsection.

Section 13

1 **Division 5—Alternative constitutional bases**

2 **13 Alternative constitutional bases**

- 3 (1) Without limiting its effect apart from this section, this Act also has
4 the effect it would have if the purposes of the ACI register were, by
5 express provision, confined to purposes relating to:
6 (a) the provision of pharmaceutical benefits; or
7 (b) the provision of medical services (without any form of civil
8 conscription); or
9 (c) census or statistics; or
10 (d) external affairs, including:
11 (i) giving effect to an international agreement to which
12 Australia is a party; or
13 (ii) addressing matters of international concern; or
14 (e) a Territory or a Commonwealth place (within the meaning of
15 the *Commonwealth Places (Application of Laws) Act 1970*);
16 or
17 (f) the implied power of the Parliament to make laws with
18 respect to nationhood; or
19 (g) the executive power of the Commonwealth; or
20 (h) matters incidental to the execution of any of the legislative
21 powers of the Parliament or the executive power of the
22 Commonwealth.
- 23 (2) A term used in this section and the Constitution has the same
24 meaning in this section as it has in the Constitution.

1 **Part 4—Dealing with protected information in the** 2 **register** 3

4 **21 Simplified outline of this Part**

5 Information can be collected for inclusion in the ACI register.

6 Section 23 makes it an offence if a person, while unauthorised to
7 do so, discloses or uses protected information.

8 The main authorisation relates to disclosure or use for the purposes
9 of the register. There are also a number of exceptions to the
10 offence.

11 **22 Authorised dealings with protected information**

12 *Uploading personal information etc. to the ACI register*

- 13 (1) A person may collect, make a record of, disclose or otherwise use:
14 (a) personal information; or
15 (b) relevant identifying information; or
16 (c) information that is commercial-in-confidence;
17 if the person does so for the purposes of including the information
18 in the ACI register.

19 Note: This subsection is an authorisation for the purposes of other laws,
20 including the Australian Privacy Principles.

21 *Using or disclosing protected information in the ACI register*

- 22 (2) A person may make a record of, disclose or otherwise use
23 protected information if:
24 (a) the person does so for the purposes of the ACI register, and
25 the person is:
26 (i) an officer or employee of the Commonwealth or of an
27 authority of the Commonwealth; or

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- 1 (ii) engaged by the Commonwealth, or by an authority of
2 the Commonwealth, to perform work relating to the
3 purposes of the ACI register; or
4 (iii) an officer or employee of, or is engaged by, a person
5 referred to in subparagraph (ii) to perform work relating
6 to the purposes of the ACI register; or
7 (iv) a prescribed body; or
8 (v) a recognised vaccination provider; or
9 (b) the person is authorised to do so under subsection (3); or
10 (c) the person does so for the purposes of performing the
11 person's functions, or exercising the person's powers, under
12 this Act; or
13 (d) the person is required or authorised to do so by or under a
14 law of the Commonwealth or of a State or Territory; or
15 (e) the person does so for the purposes of court or tribunal
16 proceedings, or in accordance with an order of a court or
17 tribunal; or
18 (f) the person does so for the purposes of a coronial inquiry, or
19 in accordance with an order of a coroner; or
20 (g) the person does so for the purposes of updating the register
21 kept under section 9BA of the *National Health Act 1953*.
- 22 Note 1: This subsection is an authorisation for the purposes of other laws,
23 including the Australian Privacy Principles.
- 24 Note 2: Protected information is not limited to information in the register (see
25 section 4). It can also cover information that:
26 (a) is obtained as the result of a disclosure from the register, whether
27 directly or indirectly because of one or more on-disclosures; or
28 (b) is derived from information that was in the register.
- 29 (3) The Minister may, in writing, authorise a person to make a record
30 of, disclose or otherwise use protected information for a specified
31 purpose that the Minister is satisfied is in the public interest.
- 32 (4) Paragraph (2)(a) does not apply to personal information to the
33 extent that a disclosure under that paragraph would be contrary to a
34 request in force under subsection 11(2).

35 **23 Offence relating to protected information**

36 A person commits an offence if:

-
- 1 (a) the person obtains information; and
 2 (b) the information is protected information; and
 3 (c) the person makes a record of, discloses or otherwise uses the
 4 information; and
 5 (d) the making of the record, or the disclosure or use, is not
 6 authorised by section 22.

7 Penalty: Imprisonment for 2 years or 120 penalty units, or both.

8 **24 Exception for use in good faith**

9 Section 23 does not apply to a person to the extent that the person
 10 makes a record of, discloses or otherwise uses protected
 11 information in good faith and in purported compliance with
 12 section 22.

13 Note: A defendant bears an evidential burden in relation to the matters in
 14 this section (see subsection 13.3(3) of the *Criminal Code*).

15 **25 Exception if unaware information is commercial-in-confidence**

16 Section 23 does not apply to a person if:

- 17 (a) the person makes a record of, discloses or otherwise uses
 18 protected information; and
 19 (b) the information is commercial-in-confidence; and
 20 (c) the person does not know that the information is
 21 commercial-in-confidence.

22 Note: A defendant bears an evidential burden in relation to the matters in
 23 this section (see subsection 13.3(3) of the *Criminal Code*).

24 **26 Exceptions relating to the person to whom the protected** 25 **information relates**

- 26 (1) Section 23 does not apply to a person if:
 27 (a) the person discloses protected information to the person to
 28 whom the information relates; or
 29 (b) the person is the person to whom the protected information
 30 relates; or
 31 (c) the making of the record, or the disclosure or use, of the
 32 protected information is in accordance with the express or
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1 implied consent of the person to whom the information
2 relates.

3 Note: A defendant bears an evidential burden in relation to the matters in
4 this subsection (see subsection 13.3(3) of the *Criminal Code*).

5 (2) Subsection (1) applies as if a reference in that subsection to the
6 person to whom the protected information relates includes a
7 reference to the person's parent or guardian if the person is
8 incapable of managing his or her health affairs.

9 **27 Exception for disclosure to person who provided the information**

10 Section 23 does not apply to a person if:

11 (a) the person obtains protected information from another
12 person; and

13 (b) the person discloses that information to the other person.

14 Note: A defendant bears an evidential burden in relation to the matters in
15 this section (see subsection 13.3(3) of the *Criminal Code*).

Part 5—Other matters**28 Simplified outline of this Part**

This Part deals with other matters, such as approved forms, delegations and rules.

29 Approved forms

- (1) The Minister may, in writing, approve a form for the purposes of a provision of this Act.
- (2) A request required by a provision of this Act to be in the approved form must be given to the person specified in the form for that purpose.

30 Delegation

- (1) The Minister may, in writing, delegate his or her functions or powers under subsection 22(3) (about authorising disclosures etc.) to:
 - (a) a person who holds or performs the duties of an SES Band 3 position, or an equivalent or higher position, in the Department; or
 - (b) the Chief Executive Medicare.
- (2) The Minister may, in writing, delegate his or her functions or powers under:
 - (a) section 5 (about commercial-in-confidence information); or
 - (b) section 12 (about payments relating to vaccinations); or
 - (c) section 29 (about approved forms);to an SES employee, or an acting SES employee, in the Department or to the Chief Executive Medicare.
- (3) In performing a function, or exercising a power, under a delegation, the delegate must comply with any directions of the Minister.

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1 **31 Rules**

- 2 (1) The Minister may, by legislative instrument, make rules
3 prescribing matters:
4 (a) required or permitted by this Act to be prescribed by the
5 rules; or
6 (b) necessary or convenient to be prescribed for carrying out or
7 giving effect to this Act.
- 8 (2) To avoid doubt, the rules may not do the following:
9 (a) create an offence or civil penalty;
10 (b) provide powers of:
11 (i) arrest or detention; or
12 (ii) entry, search or seizure;
13 (c) impose a tax;
14 (d) set an amount to be appropriated from the Consolidated
15 Revenue Fund under an appropriation in this Act;
16 (e) directly amend the text of this Act.
17

(148/15)
