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BILLS DIGEST

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Australian Immunisation Register Bill 2015 [and] Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015

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Date introduced: 10 September 2015

House: House of Representatives

Portfolio: Health

Commencement: The *Australian Immunisation Register Act 2015* commences on 1 January 2016. The *Australian Immunisation Register (Consequential and Transitional Provisions) Act 2015* commences on various dates set out in section 2 of the Bill but is conditional upon the commencement of the *Australian Immunisation Register Act 2015*.

Links: The links to the Bills, their Explanatory Memoranda and second reading speeches can be found on the Bills' home pages for the [Australian Immunisation Register Bill 2015](#) and the [Australian Immunisation Register \(Consequential and Transitional Provisions\) Bill 2015](#), or through the [Australian Parliament website](#).

When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the [ComLaw website](#).

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Purpose of the Bills

The purpose of the Australian Immunisation Register Bill 2015 (the AIR Bill)¹ is to:

- create a consolidated legislative framework to govern the operation of Australian immunisation registers and
- expand the age range covered by the Australian Childhood Immunisation Register (ACIR) from children under seven years of age to ‘young individuals’ under 20 years of age (commencing from 1 January 2016).

The purpose of the Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015 (the Consequential Bill)² is to amend the *Australian Immunisation Register Act 2015* (the AIR Act) and other legislation to incrementally:

- expand the ACIR to become the Australian Immunisation Register (AIR) (to capture all vaccinations given to people from birth to death commencing from late 2016) and
- expand the National Human Papillomavirus (HPV) Vaccination Program Register (HPV Register) to become the Australian School Vaccination Register (ASVR) under the broad umbrella of the AIR (to capture all adolescent vaccinations given through school programs commencing from the start of the 2017 school year).

Structure of the Bills

The AIR Bill is divided into a number of parts. Part 1 is preliminary, Part 2 establishes the ACIR, Part 4 deals with protected information in the ACIR, and Part 5 deals with forms, delegations and rules. There is no Part 3.³

The Consequential Bill has three Schedules. Schedule 1 repeals the existing legislative provisions for the ACIR, Schedule 2 expands the ACIR to become the AIR and Schedule 3 expands the HPV Register to become the ASVR.

Background

Immunisation involves giving vaccines to people to protect against infectious diseases. The use of vaccines in Australia has greatly reduced infections and deaths from diseases such as diphtheria, whooping cough, tetanus, polio and measles. However, vaccine-preventable diseases can re-emerge in developed countries if vaccine coverage (the proportion of the population who have received the vaccination) falls below the level required for ‘herd immunity’. Depending on both the vaccine and the particular disease, between 75 per cent and 94 per cent of a population may need to be vaccinated to stop diseases circulating and protect people such as newborns and those with suppressed immune systems. For this reason, governments and health professionals work hard to maintain high rates of vaccine coverage in the population.⁴

National Immunisation Program (NIP)

The Australian Government provides funding to the state and territory governments to purchase vaccines listed on the National Immunisation Program (NIP) Schedule.⁵ The NIP Schedule currently includes 16 infectious diseases for which free vaccinations are provided to people in the specified age or risk groups.⁶ This includes vaccines given to children at specified ages between birth and four years of age, vaccinations given to older children through school programs, and vaccinations for people aged 65 and over. The NIP Schedule also includes additional vaccines for people in at-risk groups such as Aboriginal and Torres Strait Islanders and pregnant women.⁷

Many of the vaccines received by adults are not listed or funded on the NIP, but are recommended in particular circumstances. Groups who may require additional vaccinations include travellers, women who are planning a

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1. Parliament of Australia, [‘Australian Immunisation Register Bill 2015 homepage’](#), Australian Parliament website, accessed 14 September 2015.
 2. Parliament of Australia, [‘Australian Immunisation Register \(Consequential and Transitional Provisions\) Bill 2015 homepage’](#), Australian Parliament website, accessed 14 September 2015.
 3. Part 3 is reserved for the future insertion of provisions relating to a proposed National Australian Cancer Screening Register. See the [Explanatory Memorandum](#), Australian Immunisation Register Bill 2015, p. 14, accessed 15 September 2015.
 4. S Prasad, [Vaccines on the frontline against infectious diseases](#), Occasional paper series, 10, June 2015, Office of the Chief Scientist, Canberra, 2015, accessed 21 September 2015.
 5. Department of Health (DoH), [‘About the program’](#), Immunise Australia Program website, 20 April 2015, accessed 21 September 2015.
 6. DoH, [‘Individuals and families’](#), Immunise Australia Program website, 29 September 2015, accessed 29 September 2015.
 7. [National Health \(Immunisation Program — Designated Vaccines\) Determination 2014 \(No. 1\)](#), ComLaw website, accessed 21 September 2015. A simpler version of the National Immunisation Program Schedule is available at DoH, [‘National Immunisation Program Schedule’](#), Immunise Australia Program website, 17 June 2015, accessed 21 September 2015.

pregnancy, immunocompromised people, health and childcare workers, migrants, prisoners, men who have sex with men, people who inject drugs and sex industry workers.⁸

Although the Explanatory Memorandum to the AIR Bill indicates that the proposed registers (the AIR and the ASVR) are only intended to record vaccinations given under the NIP, the Bill itself does not confine the registers in this way.⁹

Immunisation registers

An immunisation register is a confidential system that records information about vaccinations given to a particular population. Such registers are an important tool for improving the performance of immunisation programs.¹⁰ Immunisation registers are used to:

- collect data on vaccines given
- generate reminder (due) and recall (overdue) notices prompting clients to have their next vaccination
- provide certificates of vaccination and
- monitor vaccine coverage in the population.¹¹

Vaccination information in Australia is currently collected in a number of overlapping national and jurisdictional registers, as well as in primary care software used by General Practitioners (GPs).¹² Most states and territories maintain vaccine registers, but some only cover school based adolescent programs, some cover school and local government child and adolescent programs, while others cover all NIP vaccinations. GP practice software systems are the major stores of data for NIP vaccines given to adults, and non-NIP vaccines such as travel vaccinations. Both jurisdictional registers and GP software systems provide some data to the two national registers, which are briefly described below.¹³

Australian Childhood Immunisation Register (ACIR)

The Australian Childhood Immunisation Register (ACIR) was introduced in 1996 as one of a series of measures to reduce the incidence of vaccine-preventable diseases in Australia.¹⁴

The ACIR is administered by the Department of Human Services (DHS) on behalf of the Department of Health (DoH). It is a national register that records the details of vaccinations given to children under seven years of age who live in Australia. Immunisation details are sent to the ACIR by immunisation providers, who receive a payment for providing this information. Data from the ACIR can be used to check on the immunisation status of a child (for health or family payment reasons), to issue Immunisation History Statements, and to measure levels of vaccination coverage.¹⁵

National Human Papillomavirus Vaccination Program Register (the HPV register)

The HPV vaccination program began in 2007. It provides HPV vaccine free of charge to 12 and 13 year olds through schools, in order to protect against HPV-related cancer and disease.¹⁶ HPV vaccine is included on the NIP Schedule for this age group.¹⁷

8. DoH, '[Vaccination for special risk groups](#)', *Australian immunisation handbook*, 10th edn, part 3, 16 July 2015, DOH website, accessed 21 September 2015.

9. [Explanatory Memorandum](#), Australian Immunisation Register Bill 2015, op. cit., p. 3.

10. L Chin, N Crawford, G Rowles and J Buttery, '[Australian immunisation registers: established foundations and opportunities for improvement](#)', *Euro Surveillance*, 17(16), 19 April 2012, p. 24, accessed 21 September 2015.

11. K Johansen, P Lopalco and J Giesecke, '[Editorial: immunisation registers – important for vaccinated individuals, vaccinators and public health](#)', *Euro Surveillance*, 17(16), 19 April 2012, p. 2, accessed 21 September 2015.

12. L Chin et al, '[Australian immunisation registers](#)', op. cit., pp. 24, 29.

13. *Ibid.*, p. 29.

14. *Ibid.*, p. 25.

15. Department of Human Services (DHS), '[Australian Childhood Immunisation Register for health professionals](#)', DHS website, 26 June 2015, accessed 17 September 2015.

16. National HPV Vaccination Program Register, '[Health professionals](#)', National HPV Vaccination Program Register website, accessed 21 September 2015.

17. [National Health \(Immunisation Program – Designated Vaccines\) Determination 2014 \(No. 1\)](#), op. cit.

The National HPV Vaccination Program Register (the HPV Register) collects information about doses of HPV vaccine given under the HPV vaccination program, but does not collect data on any other adolescent vaccinations. The HPV Register is operated by the Victorian Cytology Service and is fully funded by the Australian Government Department of Health.¹⁸

Information on the HPV Register is used to issue completion statements and reminder notices to vaccine recipients, and to inform vaccination providers about patients who have not completed their course of HPV vaccination. It is also used to monitor HPV vaccine coverage and to measure the effect of the vaccine on HPV-related diseases such as cervical cancer.¹⁹

Previous consideration of a whole-of-life register

The idea of a national whole-of-life register that covers vaccinations at all ages has previously been considered by the Australian Government. In 2006, the then Department of Health and Ageing announced a \$1.2 million 'Australian Childhood Immunisation Register – Redevelopment scoping study'. The study was intended to:

- explore options for turning the ACIR into a whole-of-life register, including adult vaccinations, 'with the potential to improve health and reduce wastage of expensive vaccines'
- consider consolidating other population health registers such as the bowel screening register into a single register and
- advise the Government on how to improve the existing register in order to provide complete immunisation history information and improve vaccine coverage monitoring and targeting.²⁰

It appears that the scoping study did not proceed. An answer to a 2007–08 Budget Estimates question on notice lists the study as a terminating measure without showing any actual expenditure.²¹

PBAC recommendation – November 2014

A recent recommendation of the Pharmaceutical Benefits Advisory Committee (PBAC) has given the Australian Government another reason to consider a national register for adult as well as childhood vaccinations.²²

In November 2014 the PBAC recommended that Zostavax should be listed on the NIP Schedule for adults aged 70 years old, with a catch up program for 71 to 79 year olds.²³ Zostavax is a vaccine that is used in older people to prevent shingles (herpes zoster) and the long-lasting nerve pain that sometimes follows shingles (post-herpetic neuralgia).²⁴

In making this recommendation, the PBAC endorsed the advice it had received from the Australian Technical Advisory Group on Immunisation (ATAGI) that 'the establishment of an adult vaccination register is a high priority'.²⁵ The ATAGI advice was made due to concerns about the lack of a national register for adult vaccines funded under the NIP, as well as uncertainty about the effectiveness over time of the Zostavax vaccine:

Accurate recording of vaccine administration is essential to optimize vaccine provision for effective disease prevention, to avoid repeat vaccination, under-vaccination, and vaccine wastage and leakage. ATAGI considers that an immunisation register is also an essential requirement to enable robust assessment of vaccination program impact, particularly for Zostavax. Given the uncertainty around Zostavax vaccine effectiveness and duration of protection against both herpes zoster and post-herpetic neuralgia, the potential need for additional changes in

18. [The National Human Papillomavirus \(HPV\) Vaccination Program Register website](#), accessed 21 September 2015.

19. National HPV Vaccination Program Register, '[Why notify HPV doses](#)', National HPV Vaccination Program Register website, accessed 21 September 2015.

20. Department of Health and Ageing (DoHA), '[Australian Childhood Immunisation Register – Redevelopment scoping study](#)', DoH website, 9 May 2006, accessed 21 September 2015.

21. Senate Community Affairs Committee, Answers to Questions on Notice, Health and Ageing Portfolio, Budget Estimates 2007–08, 19 March 2008, [Question E07-130](#), p. 24, accessed 21 September 2015.

22. The Pharmaceutical Benefits Advisory Committee (PBAC) recommends medicines for funding under the Pharmaceutical Benefits Scheme (PBS) and vaccines for funding under the National Immunisation Program (NIP). See DoH, '[Role of the Pharmaceutical Benefits Advisory Committee](#)', PBAC Guidelines website, accessed 22 September 2015.

23. PBAC, '[Zoster virus vaccine live; 0.65 mL injection, prefilled syringe; Zostavax®](#)', Public summary document, November 2014 PBAC meeting, PBS website, 6 March 2015, accessed 22 September 2015.

24. CSL Limited, '[ZOSTAVAX consumer medicine information](#)', fact sheet, CSL website, accessed 22 September 2015.

25. PBAC, '[Zoster virus vaccine live; 0.65 mL injection, prefilled syringe; Zostavax®](#)', op. cit., p. 20.

policy and practice in the future (e.g. need for a booster dose) and the importance of monitoring vaccine safety, a register that allows access to data at both the individual patient/provider level and at a population level is a requirement.²⁶

Budget measures

The 2015–16 Budget contained three immunisation measures ‘aimed at improving vaccination rates and reducing the spread of vaccine preventable disease’.²⁷ These measures are briefly outlined below. The first two measures include the expansion of the existing national vaccine registers, and the third measure depends on the expansion of the ACIR for part of its implementation.

Improving Immunisation Coverage Rates

The Budget included \$26.4 million over four years to improve immunisation coverage rates, particularly in children and adolescents.²⁸ Activities under the measure include:

- making a six dollar incentive payment to doctors and other immunisation providers when they identify a child who is overdue for vaccination and catch them up
- funding an awareness campaign to promote the NIP and address parents’ concerns regarding immunisation and
- expanding the HPV Register to the ASVR to include all adolescent vaccinations delivered in schools under the NIP.²⁹

The ASVR will ‘provide the tools needed, such as recall and reminder systems, to improve adolescent coverage rates’, and will also allow families to access an immunisation history record of all NIP vaccines their child has received at school.³⁰

National Immunisation Programme

The Budget provided \$161.8 million over five years for new and amended listings to the NIP Schedule, including the addition of Zostavax vaccine to prevent shingles for 70 year olds from 1 November 2016.³¹ The same measure also provided for the expansion of the ACIR to record all adult vaccines provided under the NIP from 1 September 2016.³² The expansion of the ACIR is intended to ‘assist with the monitoring of safety, quality and delivery of vaccinations to the adult population’,³³ as well as to support the PBAC’s November 2014 recommendations regarding the listing of Zostavax on the NIP.³⁴

No Jab No Pay

Prior to the Budget, the Government announced that from 1 January 2016 it would end the conscientious objector exemption that allows parents to retain eligibility for the Family Tax Benefit Part A (FTB-A) end-of-year supplement, Child Care Benefit (CCB) and Child Care Rebate (CCR) payments even if they choose not to vaccinate their children. The reason given was concern about the risks to other children and the community from increasing numbers of unvaccinated children whose parents object to vaccination.³⁵

This ‘No Jab No Pay’ measure is expected to save \$508.3 million over five years.³⁶ In addition to removing conscientious objection as a valid exemption category, it also extends the immunisation requirements for the FTB-A supplement, CCB and CCR to all children up to 19 years of age. Children who are not up-to-date with their

26. Ibid., p. 3.

27. M Klapdor and A Grove, ‘No Jab No Pay’ and other immunisation measures’, [Budget review 2015–16](#), Research Paper series, 2014–15, Parliamentary Library, Canberra, May 2015, p. 84, accessed 15 September 2015.

28. Australian Government, [Budget measures: budget paper no. 2: 2015–16](#), p. 101, accessed 15 September 2015.

29. DoH, [Improving immunisation coverage rates](#), fact sheet, DoH website, 2015, accessed 15 September 2015.

30. Ibid.

31. [Budget measures: budget paper no. 2: 2015–16](#), op. cit., p. 106.

32. Ibid.; DHS, ‘[Budget 2015–16: National Immunisation Programme – new and amended listings](#)’, DHS website, accessed 15 September 2015.

33. [Budget measures: budget paper no. 2: 2015–16](#), op. cit., p. 106.

34. DHS, ‘[Budget 2015–16: National Immunisation Programme – new and amended listings](#)’, op. cit.

35. T Abbott (Prime Minister) and S Morrison (Minister for Social Services), [No jab – no play and no pay for child care](#), media release, 12 April 2015, accessed 15 September 2015.

36. [Budget measures: budget paper no. 2: 2015–16](#), op. cit., p. 167.

childhood immunisations will need to follow a catch-up schedule for their family to regain eligibility for these payments.³⁷

The 'No Jab No Pay' measure is implemented by the Social Services Legislation Amendment (No Jab, No Pay) Bill,³⁸ but the AIR Bill and the Consequential Bill contain a number of amendments to facilitate the implementation of the measure.

Committee consideration

Senate Standing Committee for the Scrutiny of Bills

The Senate Standing Committee for the Scrutiny of Bills expressed two concerns with the AIR Bill. The first is that **subclause 22(3)** gives the Minister for Health a broad power to authorise the disclosure of protected information from the ACIR (which will become the AIR and ASVR) for a specified purpose that the Minister is satisfied is in the public interest. This power is in addition to **subclause 22(2)** which provides for the uses and disclosures that are authorised for the purposes of the *Privacy Act 1988*. The Committee noted that the Explanatory Memorandum did not discuss why such a broad power was necessary and considered that this may affect individual privacy, and thus asked the Minister to justify the inclusion of such a provision. It also expressed an interest in whether consideration had been given to drafting the power more narrowly.³⁹

The Committee was also concerned by **clauses 24 to 27** of the AIR Bill, which provide exceptions to the offence of unauthorised use of protected information. Each of these clauses is accompanied by a note which reads 'A defendant bears an evidential burden in relation to the matters in this section (see subsection 13.3(3) of the *Criminal Code*).'⁴⁰ The Committee considered that this reversal of the onus of proof may trespass unduly on personal rights and liberties, and has sought justification for the reversal from the Minister.⁴¹

At time of writing the Digest, the Minister's response had yet to be published.

The Committee had no comment on the Consequential Bill.⁴²

Policy position of non-government parties

Australian Labor Party

The Australian Labor Party has expressed its support for the ASVR, believing it will assist parents to ensure that their children are fully vaccinated. It also supports exploring the expansion of the AIR to 'enable adults to keep their vaccinations up to date'.⁴³

Australian Greens

No statements by the Australian Greens specifically relating to the AIR and Consequential Bills have been identified. However, Senator Richard Di Natale, the Greens' spokesperson on Health and Leader of the Australian Greens, has expressed his strong support for vaccination, describing it as 'one of the most successful and cost-effective public health interventions in human history'.⁴⁴

Position of major interest groups

There have been a number of calls over the last decade for a national whole-of-life immunisation register.

37. DHS, '[No Jab No Pay](#)', DHS website, 12 May 2015, accessed 15 September 2015. Currently, CCB and CCR immunisation requirements only apply to children up to the age of seven, and FTB-A immunisation requirements only apply to one, two and five year olds. For further information on this measure see Department of Social Services (DSS), '[Strengthening immunisation requirements](#)', fact sheet, DSS website, 12 April 2015, accessed 15 September 2015 and M Klapdor and A Grove, 'No Jab No Pay' and other immunisation measures', op. cit.

38. Parliament of Australia, '[Social Services Legislation Amendment \(No Jab, No Pay\) Bill 2015 homepage](#)', Australian Parliament website, accessed 17 September 2015.

39. Senate Standing Committee for the Scrutiny of Bills, [Alert digest](#), 10, 2015, The Senate, 16 September 2015, p. 1, accessed 22 September 2015.

40. [Criminal Code Act 1995](#), subsection 13.3(3), accessed 22 September 2015. Subsection 13.3(3) provides that 'A defendant who wishes to rely on any exception, exemption, excuse, qualification or justification provided by the law creating an offence bears an evidential burden in relation to that matter.'

41. Senate Standing Committee for the Scrutiny of Bills, [Alert digest](#), 10, 2015, op. cit., p. 2.

42. *Ibid.*, p. 3.

43. B Shorten (Leader of the Opposition), J Macklin (Shadow Minister for Families and Payments) and C King (Shadow Minister for Health), [Labor welcomes commitment to increase immunisation rates](#), media release, 19 April 2015, accessed 22 September 2015.

44. R Di Natale, '[Adjournment: Vaccination](#)', Senate, *Debates*, 27 June 2013, p. 4412, accessed 22 September 2015.

In 2007, two physician academics argued in the *Medical Journal of Australia* that an expanded immunisation register would make it easier to determine a patient's vaccination status, improve vaccine coverage, prevent over-vaccination, and allow evaluation of programs and improved monitoring of adverse events from vaccination.⁴⁵

Since 2007, calls for a whole-of-life immunisation register have continued, including from the Royal Australasian College of Physicians, the Australian Medical Association, immunisation conferences sponsored by the Public Health Association of Australia, and academics.⁴⁶

Other doctors and academics, while supporting the call for an expanded register, have observed that clearly defined policies would be needed to protect the privacy of information on such a register.⁴⁷ Privacy has also previously been raised as a concern by the Consumers' Health Forum of Australia:

The privacy of a whole-of-life immunisation register is a concern to consumers. This includes the collection, inappropriate access and secondary use of information by government and non government agencies and researchers. Consumers are concerned that people with stigmatised conditions could be further stigmatised through recording immunisations for these conditions.⁴⁸

The above concerns could be particularly relevant if non-NIP vaccinations, such as those discussed earlier, are recorded on the AIR.

Financial implications

Funding for the measures contained in the AIR Bill and the Consequential Bill was approved as part of the 2015–16 Budget. Expanding the ACIR to become the AIR will cost \$27.2 million over four years. Expanding the HPV Register to become the ASVR will cost \$9.2 million over four years.⁴⁹

Statement of Compatibility with Human Rights

As required under Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth), the Government has assessed the Bills' compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act. The Government considers that the AIR Bill and the Consequential Bill are compatible.⁵⁰

At the time of writing this Bills Digest, the Parliamentary Joint Committee on Human Rights had not yet considered the AIR Bill and the Consequential Bill.⁵¹

Key issues and provisions

New legislative framework for the ACIR

The AIR Bill introduces a new legislative framework for the ACIR. The Consequential Bill expands the ACIR to the AIR, and also moves the ASVR under the same new framework. It is intended that other registers will also come under this framework in the future, such as the proposed National Australian Cancer Screening Register.⁵²

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45. S Skull and T Nolan, '[Australia needs an expanded immunisation register for further improvements in vaccine delivery and program evaluation](#)', *Medical Journal of Australia*, 187(9), 5 November 2007, pp. 504–505, accessed 22 September 2015.
 46. Royal Australasian College of Physicians (RACP), '[Immunisation position statement](#)', RACP website, October 2012, p. 5; Australian Medical Association (AMA), '[AMA: widen National Immunisation Register](#)', media release, 11 August 2008; H Kelly, '[New register shows importance of vaccination beyond childhood](#)', The Conversation website, 15 May 2015; S Dunlevy, '[Former test cricketer Max Walker calls for adult vaccination register](#)', news.com.au website, 20 June 2015; all accessed 22 September 2015.
 47. A Cheng, C Hobbs and P Robinson, '[Letters: Australia needs an expanded immunisation register](#)', *Medical Journal of Australia*, 188(4), 18 February 2008, p. 263, accessed 22 September 2015.
 48. Consumers' Health Forum of Australia (CHF), '[Submission on the public consultation on the feasibility and functionality of a whole-of-life immunisation register](#)', CHF website, November 2006, p. 3, accessed 22 September 2015.
 49. [Explanatory Memorandum](#), Australian Immunisation Register Bill 2015, op. cit., p. 3.
 50. The Statements of Compatibility with Human Rights can be found at page 4 of the Explanatory Memorandum to the Australian Immunisation Register Bill and page 3 of the Explanatory Memorandum to the Australian Immunisation Register (Consequential and Transitional Provisions) Bill.
 51. Parliamentary Joint Committee on Human Rights, '[Twenty-eighth report of the 44th Parliament](#)', 17 September 2015, p. 2, accessed 22 September 2015.
 52. [Explanatory Memorandum](#), Australian Immunisation Register Bill 2015, op. cit., p. 14. The National Cancer Screening Register will include the Bowel and Cervical Screening Programmes, as well as providing a template for future cancer screening programmes. See S Ley (Minister for Health), '[Budget providing the answers in fight against cancers](#)', media release, 10 May 2015, accessed 17 September 2015.

The ACIR is currently established under Part IVA of the *Health Insurance Act 1973* (the *HI Act*).⁵³ The *HI Act* provides for:

- the establishment and keeping of the ACIR to record immunisations given to children under seven years of age⁵⁴
- the Medicare database to be used to populate the ACIR⁵⁵
- using information in the ACIR to determine whether a child has been immunised and to notify their parent or guardian when they are due for immunisation⁵⁶
- payments to immunisations providers and state or territory authorities for transmitting information to the ACIR⁵⁷
- the disclosure of information on the ACIR to immunisation providers, departmental officers and other persons in specified circumstances and⁵⁸
- offences relating to the unauthorised disclosure of personal or sensitive information from the ACIR.⁵⁹

Items 5 and 6 of Schedule 1 of the Consequential Bill repeal the existing legislative framework for the ACIR (including offence provisions for unauthorised disclosure of personal or sensitive information).⁶⁰

Item 7 of Schedule 1 of the Consequential Bill will facilitate the transfer of information from the Medicare database to the ACIR continuing under the new framework.⁶¹

The AIR Bill establishes a new legislative framework for the ACIR, which is considerably more detailed than the current one. The key clauses of the new framework are briefly described below. Further information on expanding the age range covered by the ACIR then follows.

Clause 8 of the AIR Bill establishes the ACIR.

Clause 9 specifies that the ACIR may contain information relating to:

- the identity of individuals
- vaccinations received
- natural immunity (where a vaccination is not required because the person has already had the disease) or medical contraindication to a vaccine, as assessed by a general practitioner and
- other information relating to vaccinations of young individuals.

Identifying information on the register will include an individual's 'name, contact details, gender, date of birth, indigenous status, healthcare identifier and medicare [sic] number.'⁶² This information will be checked daily against the information recorded in the Medicare database to ensure that information on the ACIR (such as a new address) is up to date.

Clause 10 lists the purposes of the ACIR, including:

- monitoring and publishing statistics about vaccination coverage across Australia
- identifying areas that are at risk during disease outbreaks due to low vaccination coverage
- monitoring the effectiveness of vaccines and vaccination programs

53. [Health Insurance Act 1973](#), accessed 14 September 2015.

54. *Health Insurance Act 1973*, sections 46A and 46B.

55. *Health Insurance Act 1973*, section 46C.

56. *Health Insurance Act 1973*, sections 46A and 46B.

57. *Health Insurance Act 1973*, sections 46B and 46D.

58. *Health Insurance Act 1973*, section 46E.

59. *Health Insurance Act 1973*, subsections 130(3B), (3C), (3D), (3E), (3F) and (3G).

60. *Health Insurance Act 1973*, Part IVA.

61. [Explanatory Memorandum](#), Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015, p. 9, accessed 15 September 2015.

62. [Explanatory Memorandum](#), Australian Immunisation Register Bill 2015, op. cit., p. 9.

- checking a person's vaccination status for their own or their parent's information, for the information of a vaccination provider, or to determine eligibility for family assistance
- advising individuals when vaccinations are due or overdue
- certifying that a course of vaccination has been completed and
- payments and research relating to vaccination.

This list of purposes is considerably more detailed than those contained in the *HI Act*.⁶³ The AIR Bill makes explicit uses of the ACIR that are already occurring in practice such as vaccine coverage monitoring and checking vaccination status to determine family assistance eligibility.⁶⁴

Clause 11 allows an individual (or their parent or guardian) to opt out of receiving certain correspondence from the ACIR and/or request that their personal information on the ACIR not be disclosed. They cannot, however, request that their information be removed from the ACIR altogether, nor can they prevent the sharing of their information with Centrelink for the purposes of determining eligibility for family assistance payments.⁶⁵

Clause 12 provides for the Commonwealth to make payments to recognised vaccination providers who notify the ACIR of a vaccination. In addition to the current payment made to providers, the provision also provides for a new incentive payment to be made to providers when they catch up a child who is overdue for vaccination. This implements the part of the 'Improving Immunisation Coverage Rates' Budget measure relating to incentive payments for doctors and other providers.

Clauses 22 to 27 protect the confidentiality of information contained in the ACIR.

Clause 22 provides for *protected information* (defined in **clause 4** as personal, identifying or commercial-in-confidence information) to be collected in the ACIR and to be disclosed for the purposes set out in **Clause 10**. Protected information is also permitted to be disclosed to a court or coronial inquiry, or when authorised by the Minister in the public interest (such as for child protection purposes).⁶⁶

Clause 23 creates an offence of recording, disclosing or using protected information in a way that is not authorised by **clause 22**. The offence is punishable by a maximum two years imprisonment and/or 120 penalty units (\$21,600), which is considerably more than the current maximum penalty of five penalty units (or \$900).⁶⁷

There are exceptions to the offence if the person acts in good faith (**clause 24**), if the person did not know that the information was commercial-in-confidence (**clause 25**), if the information is disclosed to the person to whom it relates (**clause 26**), or disclosed to the person who provided the information (**clause 27**).

Expanding the ACIR to cover all young people

The ACIR currently includes information on vaccinations given to children under the age of seven years.⁶⁸ In order to facilitate the 'No Jab No Pay' Budget measure, from 1 January 2016 it will be expanded to record vaccinations given to young individuals under the age of 20 years.

Clause 4 of the AIR Bill defines a *young individual* as 'an individual under the age of 20 years'. **Subclause 10(2)** provides that a parent or guardian may communicate with the ACIR on behalf of 'a young individual who is incapable of managing his or her health affairs' (such as a small child).

Conscientious objection

In addition to extending immunisation requirements for certain family assistance payments to all children and young people under 20 years of age, the 'No Jab No Pay' measure also removes conscientious objection as a valid exemption category for these immunisation requirements.⁶⁹

63. *Health Insurance Act 1973*, sections 46A and 46B.

64. [Explanatory Memorandum](#), Australian Immunisation Register Bill 2015, op. cit., pp. 10–12.

65. *Ibid.*, p. 13.

66. *Ibid.*, p. 15.

67. *Health Insurance Act 1973*, subsections 130(3B), (3C) and (3F). Under section 4AA of the [Crimes Act 1914](#) a penalty unit is equivalent to \$180.

68. *Health Insurance Act 1973*, section 46A.

69. DHS, '[No Jab No Pay](#)', op. cit.

Paragraph 9(c) of the AIR Bill maintains consistency with this measure because it allows for the recording of natural immunity or medical contraindication to a vaccine on the ACIR, but does not mention conscientious objection.

The ACIR currently publishes conscientious objection statistics which provide information on the levels of vaccine objection by jurisdiction. It appears that these statistics will no longer be produced from 1 January 2016.⁷⁰

Expanding the ACIR to the whole-of-life AIR

The Government intends to expand the age range of the ACIR to include vaccinations given by GPs and community clinics 'from birth to death'. At the same time, the ACIR will be renamed the Australian Immunisation Register (AIR).⁷¹ The Government is aiming to implement this change in October 2016, in time for the listing of the adult Zostavax vaccine on the NIP on 1 November 2016.⁷²

Schedule 2 of the Consequential Bill amends the *AIR Act* to:

- change the name of the ACIR to the AIR
- expand the scope of the AIR from young individuals to all individuals and
- allow any **legal personal representative** of an individual (such as a trustee or a person who holds an enduring power of attorney), rather than just a parent or guardian, to interact with the AIR on the individual's behalf if they are not capable of managing their health affairs.

These amendments will create, for the first time, a national register of vaccinations given to adults as well as children, which can be consistently accessed by individuals and healthcare providers throughout life.⁷³

As previously noted, individuals will be able to opt out of having their personal information disclosed from the AIR, but they will not be able to 'opt off' the AIR altogether.

Expanding the HPV Register to the multi-vaccine ASVR

The HPV Register is currently established under the *National Health Act 1953* (the *NH Act*).⁷⁴ The HPV Register records information about people who receive the Human Papillomavirus (HPV) vaccine under the National HPV Vaccination Program. The current purposes of the HPV Register include:

- monitoring the effectiveness of the HPV Vaccine
- sending out reminders for missed or booster doses and other vaccination information and
- certifying vaccination status.⁷⁵

Individuals on the HPV Register (or their parents if they are children) can currently request that their personal details be removed from the HPV Register (an 'opt off' provision).⁷⁶ Personal information on the HPV Register may currently be disclosed by the Commonwealth to prescribed bodies and vaccination providers.⁷⁷

From 1 January 2017, the HPV Register will move to the same legislative framework as the AIR (described previously). At the same time, it will be expanded to capture all adolescent vaccinations given in schools and be renamed the ASVR.⁷⁸

70. DoH, '[ACIR - State and territory vaccine objection \(conscientious objection\) data](#)', Immunise Australia Program website, 14 September 2015, accessed 17 September 2015.

71. [Explanatory Memorandum](#), Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015, op. cit., p. 11.

72. [Budget measures: budget paper no. 2: 2015-16](#), op. cit., p. 106; [Explanatory Memorandum](#), Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015, op. cit., p. 11.

73. [Explanatory Memorandum](#), Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015, op. cit., p. 5.

74. [National Health Act 1953](#), section 9BA, accessed 17 September 2015.

75. *National Health Act 1953*, subsection 9BA(3). Paragraph 9BA(3)(f) provides for payment to general practitioners for notifying a vaccination to the HPV register, but it appears that these payments ceased in 2010. See National HPV Vaccination Program Register, '[FAQs: Will I receive an incentive payment for notifying the Register?](#)', National HPV Vaccination Program Register website, accessed 21 September 2015.

76. *National Health Act 1953*, subsection 9BA(4).

77. *National Health Act 1953*, subsection 9BA(6).

78. [Explanatory Memorandum](#), Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015, op. cit., p. 1.

Subclause 8(2) of the AIR Bill provides that parts of the ACIR may be kept separate from each other. This allows for the ASVR 'to be maintained and operated on a separate register platform, whilst still being covered by the provisions of [the AIR] Bill from 1 January 2017 onwards'.⁷⁹

Item 1 of Schedule 3 of the Consequential Bill amends the *AIR Act* to provide that parts of the AIR may have different names (and a note gives the ASVR as an example).

Item 4 of Schedule 3 of the Consequential Bill repeals the existing legislative framework for the HPV Register.

Bringing the ASVR under the same framework as the AIR will result in an expanded list of purposes and strengthened privacy provisions for the information currently held in the HPV Register. However, it will also mean that there is no longer an 'opt off' provision for people who don't want their information stored on the register.

Other provisions

Consequential amendments to other legislation

In addition to amendments to the *HI Act* and the *NH Act*, the Consequential Bill also makes a number of minor consequential amendments to the following Acts:

- *Freedom of Information Act 1982*⁸⁰
- *A New Tax System (Family Assistance) Act 1999*⁸¹
- *Healthcare Identifiers Act 2010*⁸²
- *Child Support (Registration and Collection) Act 1988*⁸³
- *Human Services (Medicare) Act 1973*⁸⁴ and
- *Human Services (Centrelink) Act 1997*.⁸⁵

These amendments are adequately described in the Explanatory Memorandum.⁸⁶

Concluding comments

Vaccination is a very effective public health measure, and national immunisation registers are important tools for maintaining high rates of vaccination in the population. The expansion of the current national childhood and HPV registers to cover vaccines given at all ages has bipartisan support and has long been called for by the medical community. Questions have been raised by a Parliamentary Committee and some stakeholders about the protection of private information in the proposed registers, despite the inclusion in the AIR Bill of increased penalties for the unauthorised use of such information.

79. [Explanatory Memorandum](#), Australian Immunisation Register Bill 2015, op. cit., p. 9.

80. [Freedom of Information Act 1982](#), accessed 17 September 2015.

81. [A New Tax System \(Family Assistance\) Act 1999](#), accessed 17 September 2015.

82. [Healthcare Identifiers Act 2010](#), accessed 17 September 2015.

83. [Child Support \(Registration and Collection\) Act 1988](#), accessed 17 September 2015.

84. [Human Services \(Medicare\) Act 1973](#), accessed 17 September 2015.

85. [Human Services \(Centrelink\) Act 1997](#), accessed 17 September 2015.

86. [Explanatory Memorandum](#), Australian Immunisation Register (Consequential and Transitional Provisions) Bill 2015, op. cit., pp. 1–2.

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