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## BILLS DIGEST

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# Social Services Legislation Amendment (No Job, No Pay) Bill 2015

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**Date introduced:** 16 September 2015

**House:** House of Representatives

**Portfolio:** Social Services

**Commencement:** Schedule 1 on 1 January 2016 and remaining sections on Royal Assent.

**Links:** The links to the [Bill, its Explanatory Memorandum and second reading speech](#) can be found on the Bill's home page, 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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## List of abbreviations

Abbreviation	Definition
ACIR	Australian Childhood Immunisation Register
CCB	Child Care Benefit
CCR	Child Care Rebate
DHS	Department of Human Services
DSS	Department of Social Services
<i>FA Act</i>	<i>A New Tax System (Family Assistance) Act 1999</i>
FTB-A	Family Tax Benefit Part A
MIA	Maternity Immunisation Allowance
SCCB	Special Child Care Benefit

## Purpose of the Bill

The Social Services Legislation Amendment (No Jab, No Pay) Bill 2015 (the Bill) amends the *A New Tax System (Family Assistance) Act 1999* (the FA Act)<sup>1</sup> to tighten the immunisation requirements for the Family Tax Benefit Part A (FTB-A) supplement, Child Care Benefit (CCB) and Child Care Rebate (CCR). The Bill will remove the exemption from the immunisation requirements for those who submit a conscientious objection to immunisation and will remove the Minister for Social Services' power to exempt a class of persons from the requirements by legislative instrument.

From 1 January 2016, exemptions from the requirements will only apply where a general practitioner (GP) has certified that vaccination would be medically contraindicated or a child has a natural immunity; where the child is a participant in a registered vaccine study; where a vaccine is temporarily unavailable; where the child has been vaccinated overseas; or where the Department of Social Services (DSS) or the Department of Education and Training has determined that the child meets immunisation requirements (in line with decision-making principles to be set out in a legislative instrument).<sup>2</sup> The Bill will also amend immunisation requirements specific to the FTB-A supplement so that children must meet the relevant immunisation requirements each financial year, not just in the year the child turns one, two or five.

## Background

In April 2015, the Government announced that it would close off some exemptions from the immunisation requirements for eligibility for the FTB-A supplement, CCB and CCR, stating that it was 'extremely concerned' at the risk non-vaccinated children pose to public health.<sup>3</sup> On 12 April 2015, the Government first announced that it would remove the conscientious objector exemption but retain the exemptions for medical reasons and religious grounds.<sup>4</sup> On 19 April, then Minister for Social Services, Scott Morrison, announced that, after discussions with the Church of Christ, Scientist, their specific exemption would be removed as the Church advised it was no longer necessary. This was the only religious organisation with an approved vaccination exemption, and the Minister announced that no further vaccination exemptions would be authorised for religious organisations.<sup>5</sup> The removal of these exemptions, and the new requirements for children of all ages to meet immunisation requirements for the FTB-A supplement, were included in the 2015–16 Budget as part of a package of measures aimed at boosting rates of immunisation.<sup>6</sup>

### ***Brief history of immunisation requirements attached to social security payments***

A requirement for children to meet certain immunisation schedules has been attached to child care payments since 1998 and for the FTB-A supplement from 2012.<sup>7</sup> The immunisation schedules are contained in legislative instruments and set out which diseases a child needs to be immunised against at various ages—at two, four, six, 12 and 18 months and at four years) and are based on the National Immunisation Program Schedule (the

1. [A New Tax System \(Family Assistance\) Act 1999](#) (Cth), accessed 16 October 2015.
2. The Department of Social Services has administrative responsibility for the Family Tax Benefit Part A supplement while the Department of Education and Training administers Child Care Benefit and Child Care Rebate. Commonwealth of Australia, [Administrative Arrangements Order](#), 30 September 2015, accessed 22 October 2015.
3. 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 6 October 2015.
4. Ibid.
5. S Morrison (Minister for Social Services), [Government ends religious 'no jab no pay' of benefits exemption](#), media release, 19 April 2015.
6. 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, 2015, pp. 85–86, accessed 7 October 2015; A Grove, [Australian Immunisation Register Bill 2015 \[and\] Australian Immunisation Register \(Consequential and Transitional Provisions\) Bill 2015](#), Bills digest, 25, 2015–16, Parliamentary Library, Canberra, 1 October 2015, accessed 7 October 2015. Australian Government, [Part 2: expense measures](#), *Budget measures: budget paper no. 2: 2015–16*, p. 101, 167, accessed 22 October 2015.
7. [Child Care Legislation Amendment Act 1998](#) (Cth), accessed 6 October 2015; [Family Assistance and Other Legislation Amendment Act 2012](#), (Cth), accessed 6 October 2015.

Australian Government funds vaccines listed on this schedule).<sup>8</sup> Children’s immunisation status is checked against the Australian Childhood Immunisation Register (ACIR).<sup>9</sup>

The requirement attached to child care payments was introduced as part of the Howard Government’s ‘Immunise Australia: Seven Point Plan’, which also included increased Maternity Allowance payments for those parents who ensured their child’s immunisation coverage was complete.<sup>10</sup> The portion of Maternity Allowance paid in respect of children who had reached the age of 18 months and who had received age-appropriate immunisation (unless the child was exempt) was renamed the Maternity Immunisation Allowance (MIA).<sup>11</sup> Exemptions from the immunisation requirements for those with medical reasons and for those who submitted a conscientious objection to immunisation were included in the relevant legislation when these immunisation requirements were put in place in 1998, as were legislative instruments allowing for an exemption specifically for members of the Church of Christ, Scientist.<sup>12</sup> In regards to the conscientious objection exemption, then Minister for Health and Family Services, Michael Wooldridge, stated it was a parent’s right and that the number of objectors would be small:

Many parents are concerned about potential side effects. Some parents have a bad experience with the first immunisation and may not be able to complete the immunisation of their children. People have the right to make that decision in a free society. As a father of young children myself, I understand their concern but I cannot agree with it. The net effect is to put other people's children at risk, not just their own. However, given that over 97 per cent of parents support immunisation, we do not expect this group to be large.<sup>13</sup>

In 2004, Maternity Allowance was replaced by Maternity Payment (which was renamed Baby Bonus in 2007) but the MIA remained as a separate payment.<sup>14</sup> In 2009, MIA was converted into two equal payments paid when children met the 18-month and 4-year old immunisation requirements.<sup>15</sup>

From 1 July 2012, immunisation requirements were added to the eligibility conditions for the FTB-A supplement and the MIA was abolished. The FTB-A supplement is a lump sum paid after the end of the financial year to families who receive FTB-A during that financial year—it was introduced in 2004 and is partly aimed at addressing the problem of families incorrectly estimating their annual income and being required to repay FTB-A overpayments at the end of the financial year following reconciliation.<sup>16</sup> For 2015–16 the supplement will be \$726.35 per child.<sup>17</sup> However, legislation currently before the Parliament will, if passed, gradually reduce the payment rate in 2016–17 and 2017–18, before abolishing the supplement from 1 July 2018.<sup>18</sup>

The FTB-A supplement requirements are different from those that applied to the MIA—to be eligible, families need to have their children meet the relevant immunisation schedules when they turn one, two and five years old to be eligible to receive the supplement for that financial year (the supplement is paid as a lump sum after

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8. Department of Social Services (DSS), ‘[2.1.3.30 Vaccination schedules \(FTB, CC\)](#)’, *Family assistance guide*, version 1.181, released 21 September 2015, DSS website, accessed 8 October 2015; Department of Health (DoH), ‘[About the program](#)’, Immunise Australia Program website, last updated 20 April 2015, accessed 8 October 2015.
  9. The ACIR is set to become the Australian Immunisation Register which would capture all vaccinations given to people from birth—see A Grove, [Australian Immunisation Register Bill 2015 \[and\] Australian Immunisation Register \(Consequential and Transitional Provisions\) Bill 2015](#), Bills digest, 25, 2015–16, Parliamentary Library, Canberra, 1 October 2015, accessed 7 October 2015.
  10. M Wooldridge (Minister for Health and Family Services), ‘[Ministerial statement: Immunise Australia: seven point plan](#)’, House of Representatives, *Debates*, 25 February 1997, p. 1179–1180, accessed 6 October 2015.
  11. D Daniels, [Social security payments for people caring for children, 1912 to 2008: a chronology](#), Background note, 2008–09, Parliamentary Library, Canberra, 29 January 2009, p. 12, accessed 7 October 2015.
  12. [Child Care Legislation Amendment Act 1998](#) (Cth), accessed 6 October 2015; *Child Care Act 1972*, Childcare Assistance Immunisation Requirements, Amendment Direction IMCA/12G/98/2, *Commonwealth of Australia Gazette*, Special, no. S 211, 14 May 1998, pp. 1-2; *Childcare Rebate Act 1993*, Childcare Rebate Immunisation Requirements, Amendment Direction IMCR/39A/98/2, *Commonwealth of Australia Gazette*, Special, no. S 211, 14 May 1998, pp. 3-4.
  13. M Wooldridge, op. cit., pp. 1179–1180.
  14. D Daniels, op. cit.
  15. D Daniels and P Yeend, [Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment \(Further 2008 Budget and Other Measures\) Bill 2008](#), Bills digest, 52, 2008–09, Parliamentary Library, Canberra, 31 October 2008, accessed 8 October 2015.
  16. L Taylor, ‘[A better deal for most parents](#)’, *The Australian Financial Review*, 12 May 2004, p. 7, accessed 8 October 2015.
  17. Department of Human Services (DHS), ‘[Payment rates for Family Tax Benefit Part A](#)’, DHS website, accessed 8 October 2015.
  18. Parliament of Australia, ‘[Social Services Legislation Amendment \(Family Payments Structural Reform and Participation Measures\) Bill 2015 homepage](#)’, Australian Parliament website, accessed 21 October 2015.

the end of the financial year as part of the FTB reconciliation process). The FTB-A supplement has the same exemptions from the immunisation requirements as CCB.

### **Current immunisation requirements**

To be eligible for the purposes of CCB and the FTB-A supplement, a child must be up-to-date and not overdue with any vaccinations required at a particular age in accordance with the age appropriate vaccination schedule.<sup>19</sup> Eligibility for CCR requires a person to be eligible for CCB, even if they receive no CCB due to the income test.<sup>20</sup> As a result, the CCB immunisation requirements apply indirectly to CCR.

From 1 July 2012, for the FTB-A supplement to be paid in respect of a child turning one, two or five years during the financial year, the child needs to be immunised in accordance with the standard vaccination schedule for that age, or an approved catch-up vaccination schedule.<sup>21</sup> The immunisation requirements need to be met by the end of the financial year after the financial year for which the FTB supplement is to be paid—so a child who turned one in 2013–14 must have met the immunisation requirements by 30 June 2015 for their parent/carer to be eligible for the supplement for 2013–14.<sup>22</sup>

To be eligible for CCB, a child aged under seven years of age must be immunised in accordance with a standard vaccination schedule or an approved catch up schedule.<sup>23</sup> This requirement must be met in respect of any day of care for which CCB and CCR are claimed.<sup>24</sup>

### **Exemptions**

A child can also be considered to meet the immunisation requirements applicable to both the FTB-A supplement and CCB where:

- there is a conscientious objection to vaccination
- there is a medical contraindication covering vaccines the child is due to receive at that point in time
- the child has natural immunity to all vaccines the child is due to receive at that point in time or
- the child is in a class of person exempted from the requirements, or has been determined to meet the requirements, as set out in a legislative instrument by the Minister for Social Services.<sup>25</sup>

Classes of children that have been exempted from the requirements, or which can be determined as having met the requirements, include participants in a vaccine study conducted by Murdoch Childrens Research Institute, those unable to be immunised due to a temporary unavailability of a vaccine and children who have been immunised overseas.<sup>26</sup>

A child of a parent/carer who is a practicing member of the Church of Christ, Scientist, may also be exempt. The parent must provide a letter acknowledging the risks and benefits of immunisation and declaring their child not immunised because of their religious convictions. A church official must also confirm the parent/carer is a practicing member of the church.<sup>27</sup>

Conscientious objection is defined at section 5 of the *FA Act* as an objection to a child being immunised ‘based on a personal, philosophical, religious or medical belief involving a conviction that vaccination under the latest edition of the standard vaccination schedule should not take place’.<sup>28</sup> For the objection to be accepted, it must

19. DSS, ‘[1.1.1.10 Immunisation requirements \(FTB, CCB\)](#)’, *Family assistance guide*, version 1.181, released 21 September 2015, DSS website, accessed 16 October 2015; DSS, ‘[2.1.3.30 Vaccination schedules \(FTB, CCB\)](#)’, op. cit.

20. DSS, ‘[2.9 CCR eligibility](#)’, *Family assistance guide*, version 1.181, released 21 September 2015, DSS website, accessed 16 October 2015.

21. DSS, ‘[2.1.3.10 FTB immunisation requirements](#)’, *Family assistance guide*, version 1.181, released 21 September 2015, DSS website, accessed 8 October 2015.

22. Ibid.

23. DSS, ‘[2.1.3.20 CCB immunisation requirements](#)’, *Family assistance guide*, version 1.181, released 21 September 2015, DSS website, accessed 16 October 2015.

24. Ibid.

25. DSS, ‘[2.1.3.40 Immunisation – approved exemptions \(FTB, CCB\)](#)’, *Family assistance guide*, version 1.181, released 21 September 2015, DSS website, accessed 16 October 2015.

26. DSS, ‘[2.1.3.10 FTB immunisation requirements](#)’, op. cit.

27. DSS, ‘[2.1.3.40 Immunisation – approved exemptions \(FTB, CCB\)](#)’, op. cit.; see also [Family Assistance \(Exemption from Immunisation Requirements\) \(FaHCSIA\) Determination 2012](#), 29 June 2012, accessed 19 October 2015.

28. [A New Tax System \(Family Assistance\) Act 1999](#) (Cth), section 5, accessed 16 October 2015.

be made in a written declaration and a recognised immunisation provider must certify that they have discussed the benefits and risks of immunising the child with the individual before they declared the objection.<sup>29</sup>

### **State and territory immunisation requirements for childcare**

In recent years, a number of state governments have introduced measures aimed at restricting access to childcare facilities for children who are not fully-immunised. These have been dubbed ‘no jab, no play’ measures.

#### **New South Wales**

New South Wales introduced immunisation requirements for enrolment in childcare facilities from 1 January 2014. The legislation allows for conscientious objectors to still be enrolled but unvaccinated children can be excluded in the event of an outbreak of a vaccine preventable disease.<sup>30</sup>

#### **Queensland**

The Queensland Government introduced legislation to Parliament in July 2015 to allow the managers of childcare services the option to refuse, cancel or place a condition on the enrolment or attendance of a child who is not vaccinated or up to date with applicable immunisation schedules.<sup>31</sup> There are no exemptions for conscientious objectors.

#### **Victoria**

The Victorian Parliament is currently considering legislation which will require children to be fully immunised in order to attend childcare and kindergarten (preschool) from 1 January 2016.<sup>32</sup> There will be no exemptions for conscientious objectors, only for those with medical reasons and for certain disadvantaged and vulnerable children, who will be provided with 16 weeks to meet vaccination requirements.

### **Committee consideration**

#### **Senate Community Affairs Committee**

The Bill has been referred to the Senate Community Affairs Legislation Committee for inquiry and report by 9 November 2015. Details of the inquiry are available on the [committee website](#).<sup>33</sup>

#### **Senate Scrutiny of Bills Committee**

The Senate Standing Committee for the Scrutiny of Bills had no comment to make on the Bill.<sup>34</sup>

### **Policy position of non-government parties/independents**

The Opposition announced soon after the Budget that it will support the implementation of the no jab, no pay policy.<sup>35</sup>

The Australian Greens have stated they will support ‘moves to encourage more children to be vaccinated’. Greens spokesperson for Early Childhood Education and Care, Senator Sarah Hanson-Young, stated:

Tightening the rules around vaccinations for access to childcare payments allows parents to have confidence that their children are cared for in a safe environment.

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29. DSS, ‘[2.1.3.40 Immunisation – approved exemptions \(FTB, CCB\)](#)’, op. cit.; see also [A New Tax System \(Family Assistance\) Act 1999](#) (Cth), subsection 6(3), accessed 16 October 2015.
  30. NSW Department of Health, ‘[New vaccination requirements for child care](#)’, NSW Department of Health website, last updated 14 February 2014, accessed 15 October 2015.
  31. Queensland Health and Ambulance Services Committee, [Public Health \(Childcare Vaccination\) and Other Legislation Amendment Bill 2015](#), Report, 5, 55th Parliament, Parliament of Queensland, October 2015, p. 31, accessed 14 October 2015
  32. [Public Health and Wellbeing Amendment \(No Jab, No Play\) Bill 2015](#) (Vic), accessed 15 October 2015; D Andrews (Premier of Victoria), [Enhanced no jab no play to protect more children](#), media release, 16 August 2015, accessed 15 October 2015.
  33. Senate Community Affairs Legislation Committee, [Inquiry into the Social Services Legislation Amendment \(No Jab, No Pay\) Bill 2015](#), The Senate, Canberra, accessed 22 October 2015.
  34. Senate Standing Committee for the Scrutiny of Bills, [Alert digest](#), 11, 2015, The Senate, 14 October 2015, p. 32, accessed 20 October 2015.
  35. C Bowen (Shadow Treasurer), [Labor and the economy: owning the future](#), address to the National Press Club, Canberra, media release, 20 May 2015, accessed 15 October 2015.

However, we are concerned that a punitive approach alone will not do enough to increase vaccination rates. The Abbott government needs to invest more in education programs and social marketing strategies to increase knowledge and community demand for immunisations.<sup>36</sup>

Family First Senator Bob Day has stated that he supports the policy:

The proposals withdraw taxpayer support for child care and other services or payments should someone fail to vaccinate. Freedom of conscience on this issue remains for those who choose not to immunise – they can seek services and support from non-government options. The proposals, in our view, balance that freedom against the freedom other parents expect to have when sending their child to schools, playgrounds, parks and other public spaces.<sup>37</sup>

The remaining crossbenchers have not commented specifically on the measures.

## Position of major interest groups

Community sector and early childhood education and care peak bodies have not released specific statements about the policy. Health professionals and researchers, and their representative bodies, have taken up different positions on the policy—these are discussed below in the ‘Key issues and provisions’ section.

## Financial implications

According to the Explanatory Memorandum, the Bill is expected to provide savings of \$508.3 million over the forward estimates.<sup>38</sup> The savings will be derived from families who choose not to vaccinate their children, or who are not up to date with their children’s vaccinations, being made ineligible to receive CCB, CCR and/or the FTB-A supplement. The related budget measure, Improving Immunisation Coverage Rates, saw \$26.4 million in expenditure towards a range of measures, one of which is incentives to health providers to provide catch-up vaccinations.<sup>39</sup> Other measures included increased data collection, an awareness campaign, and improved performance benchmarks for states and territories.<sup>40</sup>

## 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 Bill’s compatibility with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of that Act. The Government recognises that the Bill engages rights to physical and mental health; rights to freedom of thought, conscience and religion; and the right to social security, but considers that the Bill is compatible with those rights.<sup>41</sup> The proposed measures will limit some individual’s rights to freedom of thought, conscience and religion and the right to social security, but the Government considers these limitations justified on the basis they are protecting other individual’s rights, and are reasonable and proportionate. See the further discussion below in the section ‘Issues around the rights of parents and consent’.

## Parliamentary Joint Committee on Human Rights

The Parliamentary Joint Committee on Human Rights reported on the Bill in its *Twenty-ninth Report of the 44th Parliament*.<sup>42</sup> The Committee sought further information on the limitation the Bill places on the right to freedom of thought, conscience and religion (under Article 18 of the *International Covenant on Civil and Political Rights*) by removing the conscientious objector exemption from the immunisation requirements for CCB, CCR and the FTB-A supplement.<sup>43</sup> The Committee found that the Statement of Compatibility with Human Rights does not sufficiently justify the limitation as it does not explain whether the measures would be likely to achieve the

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36. S Hanson-Young, [Statement from Sen. Hanson-Young on childcare](#), media release, 14 April 2015, accessed 15 October 2015.

37. B Day, [Policy position – vaccination](#), media release, 27 May 2015, accessed 15 October 2015.

38. [Explanatory Memorandum](#), Social Services Legislation Amendment (No Jab, No Pay) Bill 2015, p. 1, accessed 20 October 2015.

39. Australian Government, [‘Part 2: expense measures’](#), *Budget measures: budget paper no. 2: 2015–16*, p. 101, accessed 22 October 2015.

40. A Grove, op. cit., p. 6.

41. The Statement of Compatibility with Human Rights can be found at page 11 of the Explanatory Memorandum to the Bill.

42. Parliamentary Joint Committee on Human Rights, [Twenty-ninth report of the 44<sup>th</sup> Parliament](#), The Senate, Canberra, 13 October 2015, pp. 31–33, accessed 15 October 2015.

43. *Ibid.*, p. 33.

objective of encouraging vaccination, nor whether the measures are proportionate to this objective.<sup>44</sup> See the further discussion below in the section ‘Issues around the rights of parents and consent’.

## Key issues and provisions

### *Rationale*

The Bill is intended to boost childhood immunisation rates by restricting access to certain childcare fee assistance and family assistance payments for those whose children are not fully immunised (or who meet one of the exemption requirements).<sup>45</sup> A key measure is ending the conscientious objection exemption to the immunisation requirements for these payments which then Minister for Social Services, Scott Morrison, argued would provide confidence to parents with children in childcare and ensure the government was not supporting a choice not to immunise:

Parents who vaccinate their children should have confidence that they can take their children to child care in particular, without the fear that their children will be at risk of contracting a serious or potentially life-threatening illness because of the conscientious objections of others.

...

The choice made by some families not to vaccinate their children is not supported by public policy or medical research and advice to the government, nor should such action be supported by taxpayers in the form of family payments.<sup>46</sup>

### *Immunisation*

Immunisation involves giving vaccines to people to protect against infectious diseases: immunisation is the process whereby people are protected against an infection and vaccines are the material used for immunisation.<sup>47</sup> Vaccines work by stimulating the immune system against an infection, helping the immune system detect and destroy any future infection without the development of significant symptoms or complications.<sup>48</sup> Immunisation has greatly reduced infections and death from diseases such as diphtheria, whooping cough, tetanus, polio and measles in Australia.<sup>49</sup> However, vaccine preventable diseases can re-emerge in developed countries if vaccine coverage (the proportion of the population who have received a particular 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 to protect people such as newborns and those with suppressed immune systems.<sup>50</sup>

Vaccines can have side-effects (like other medicines), but the benefits of vaccines greatly outweigh the risks.<sup>51</sup> Serious side-effects or complications, such as allergic reactions, are extremely rare and the vast majority of side-effects are mild and short-lived—primarily swelling and redness at the site of injection.<sup>52</sup> In Australia, rigorous testing of the safety and effectiveness of vaccines apply before they are approved for widespread community use, and an ongoing post-licensure assessment process occurs to monitor any unanticipated side-effects.<sup>53</sup>

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44. Ibid.

45. S Morrison, ‘[Second reading speech: Social Services Legislation Amendment \(No Jab, No Pay\) Bill 2015](#)’, House of Representatives, *Debates*, 16 September 2015, p. 10329, accessed 12 October 2015.

46. Ibid.

47. [The science of immunisation: questions and answers](#), Australian Academy of Science, Canberra, November 2012, p. 3, accessed 12 October 2015.

48. Ibid.

49. Ibid., p. 11.

50. S Prasad, [Vaccines on the frontline against infectious diseases](#), Occasional paper series, 10, Office of the Chief Scientist, Canberra, June 2015, p. 3, accessed 12 October 2015.

51. [The science of immunisation: questions and answers](#), op. cit., p. 12.

52. S Prasad, op. cit., p. 3.

53. [The science of immunisation: questions and answers](#), op. cit., p. 14.

## Coverage rates

For children up to five years of age, the proportion fully immunised currently ranges from around 90 to 92 per cent (depending on the age group).<sup>54</sup> That is a significant increase in immunisation coverage rates compared to rates in 1999. However, in recent years, overall rates have remained static.<sup>55</sup> Coverage rates vary significantly across different parts of Australia—for example, 97.5 per cent of children aged two years in 2012–13 in Katherine in the Northern Territory were fully immunised while only 81.6 per cent of two year olds in the Richmond Valley-Coastal area of northern New South Wales were fully immunised.<sup>56</sup> Some researchers have questioned the accuracy of the ACIR data, suggesting that the published coverage rates are significantly underestimated due to underreporting, incorrect reporting, data entry errors and technical issues with the way medical practice software sends data to the ACIR system.<sup>57</sup> A recent Australian National Audit Office report performance audit of the ACIR also noted the business risk posed by the ‘limited interoperability’ between the Department of Human Services’ (DHS) information technology systems and external providers’ practice management software, which requires DHS to undertake daily manual data cleansing and matching.<sup>58</sup>

Families in receipt of the FTB-A supplement have slightly higher coverage rates than the general population—around 97 per cent meet the immunisation schedules at the relevant age points.<sup>59</sup>

## Children not fully immunised and conscientious objectors

Of the 75,000 children aged one, two or five not recorded as being fully immunised, around 20 per cent (14,869) are registered conscientious objectors.<sup>60</sup> Formal objections require a conscientious objection form to be lodged with the ACIR, signed by both a recognised immunisation provider and a parent or guardian—immunisation providers must declare that the risks and benefits associated with immunisation, and the potential dangers associated with non-immunisation, have been explained to the parent/guardian.<sup>61</sup> The percentage of all children under seven years of age with a conscientious objection recorded on the ACIR has increased from 0.23 per cent in December 1999 (4,271 children) to 1.52 per cent in June 2015 (34,063 children).<sup>62</sup>

## Reasons for children not being fully immunised

While some parents refuse to vaccinate their children out of a concern that potential harms outweigh the benefits or because of particular moral or philosophical beliefs, there are a range of other reasons why some children are not up to date with their immunisation schedules. A Western Australian survey of families with children who had no vaccinations recorded on the ACIR found that the most common reason was that the families had moved from overseas and their children’s vaccination records had not been added to the national register (though only a small number of these children would have been formally considered fully immunised under the Australian schedules).<sup>63</sup> Other reasons include a lack of transport (for parents to get their children to an immunisation provider), confusion around the schedules and when they are due, parents suffering from illnesses (including mental illness), different cultural perspectives on accessing primary health care, feeling a lack of cultural respect from health services, English-language difficulties, and not being eligible for Medicare.<sup>64</sup>

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54. DoH, ‘[ACIR annual coverage historical data](#)’, Immunise Australia Program website, last updated 20 April 2015, accessed 12 October 2015.

55. Ibid.

56. National Health Performance Authority (NHPA), [Healthy communities: immunisation rates for children in 2012–13](#), NHPA, Sydney, 2014, p. 33, accessed 12 October 2015.

57. MJ Ferson and K Orr, ‘[Some truths about the “low” childhood vaccination coverage in Sydney’s eastern suburbs](#)’, *Medical Journal of Australia*, 203(3), 3 August 2015, p. 153, accessed 12 October 2015; M Woodhead, ‘[Data mistakes and delayed notifications hamper vaccine register](#)’, *Australian Doctor*, 10 July 2015, accessed 12 October 2015.

58. Australian National Audit Office (ANAO), [Administration of the Australian Childhood Immunisation Register](#), ANAO report, 46, 2014–15, ANAO, Canberra, 2015, p. 20, accessed 20 October 2015.

59. T Abbott (Prime Minister) and S Morrison (Minister for Social Services), [No jab-no play and no pay for child care](#), op. cit.

60. NHPA, op. cit., p. iv.

61. DoH, ‘[Vaccination data](#)’, Immunise Australia Program website, accessed 12 October 2015.

62. DoH, ‘[ACIR – national vaccine objection \(conscientious objection\) data](#)’, Immunise Australia Program website, accessed 12 October 2015; DoH, ‘[ACIR – state and territory vaccine objection \(conscientious objection\) data](#)’, Immunise Australia Program website, accessed 12 October 2015.

63. Western Australia, Department of Health (WADoH), [Investigation of Western Australian children with no vaccinations recorded on the Australian Childhood Immunisation Register](#), WADoH, Perth, 2014, accessed 13 October 2015.

64. J Lowinger, ‘[Who’s missing out on vaccinations?](#)’, ABC Health and Wellbeing website, 4 May 2015, accessed 13 October 2015.

Conscientious objectors are not a homogenous group—some parents have concerns about potential impacts of vaccines on their children while others hold more strident views accusing pharmaceutical companies of deliberately harming children or alleging conspiracies in regards to profit-driven immunisation schedules.<sup>65</sup> Other conscientious objectors may base their decision on religious or philosophical views. While none of the major religious faiths in Australia are opposed to vaccination, members of the Church of Christ, Scientist were previously given an exemption from the childcare and family payment immunisation requirements due to their religious beliefs around disease and medicine (as noted earlier in this Digest).<sup>66</sup> However, the Church has recently stated that it holds a neutral position on the subject of vaccination and did not make suggestions to followers as to whether they should vaccinate their children or not.<sup>67</sup> Some strict vegetarians and vegans choose to avoid certain vaccines due to the use of animal products as ingredients or in the manufacturing process.<sup>68</sup>

### **Will the changes boost immunisation rates?**

The proposed changes offer a significant financial incentive for many families to either reconsider their objections to vaccination, or to ensure all of their children's immunisations are up to date. The FTB-A supplement is worth up to \$726.35 per annum per child while CCB and CCR payment rates depend on a family's income and use of approved childcare.<sup>69</sup> Combined, the payments can be worth thousands of dollars. It is likely that the potential loss of these payments will motivate many families to ensure their children are up to date with their vaccinations, particularly older children who were previously not subject to the FTB-A supplement immunisation requirements. However, the Government has not published any estimates as to the expected growth in vaccine coverage rates.

Media reports following the 2015–16 Budget suggested that 10,000 conscientious objectors would lose eligibility for CCB and/or CCR and 7,000 families would lose access to the FTB-A supplement.<sup>70</sup> In addition, the families of around 146,000 teenagers whose childhood immunisations were not up to date risked losing eligibility for the FTB-A supplement if they did not receive catch-up vaccinations.<sup>71</sup> Other reports gave a figure of 14,000 conscientious objectors losing eligibility for these payments.<sup>72</sup> This suggests the other 20,000 registered conscientious objectors will comply with the immunisation requirements, will meet the medical exemption criteria or will be unaffected by the measure as they do not receive family assistance or childcare payments.

Some health professionals and researchers have questioned whether imposing financial penalties is an effective way of lifting immunisation rates and engaging with parents who are hesitant about vaccinations. Hal Willaby and Julie Leask from the University of Sydney have argued that measures which address access issues and which prompt parents who are behind on their children's vaccination schedules would be more effective in boosting coverage rates.<sup>73</sup> Dr Leask recognised the broad community support for the policy but questioned whether it was justified considering the potential financial impact on some families:

On an emotional level it has appeal because it appeases anger about parents who reject vaccines. However, there are some downsides to this policy that are much less obvious, but need to be considered.

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65. See submissions to the Senate Community Affairs Committee inquiry into the Bill. For example: Mr and Mrs Dean and Angela Kelly, [Submission](#) to Senate Community Affairs Legislation Committee, *Inquiry into the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015*, [2015], 4, accessed 13 October 2015; Ms Katherine Clarke, [Submission](#) to Senate Community Affairs Legislation Committee, *Inquiry into the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015*, 43, 24 September 2015, accessed 13 October 2015.
  66. J Ireland, '[Vaccination-exempt church is the Christian Scientists](#)', *Sydney Morning Herald*, 15 April 2015, p. 6, accessed 13 October 2015; JD Grabenstein, '[What the world's religions teach, applied to vaccines and immune globulins](#)', *Vaccine*, 31(16), 12 April 2013, pp. 2011–2023, accessed 13 October 2015; BE Eldred, AJ Dean, TM McGuire and AL Nash, '[Vaccine components and constituents: responding to consumer concerns](#)', *Medical Journal of Australia*, 184(4), 20 February 2006, pp. 170–175, accessed 13 October 2015
  67. J Ireland, op. cit.
  68. BE Eldred et al, op. cit.; Queensland Department of Health, '[Medicines/pharmaceuticals of animal origin](#)', Department of Health guideline, QH-GDL-954:2013, 1 November 2013, accessed 13 October 2015.
  69. CCR covers 50 per cent of childcare fees up to a maximum payment of \$7,500 per year per child while CCB is an income tested payment based on the hours and type of care accessed.
  70. S Maiden, '[No-vaxxer crunch time](#)', *Brisbane Sunday Mail*, 17 May 2015, p. 21, accessed 13 October 2015.
  71. Ibid.
  72. L Scarr and P Law, '[Grieving parents welcome vax plan](#)', *The Daily Telegraph*, 13 April 2015, p. 3, accessed 13 October 2015.
  73. J Leask and H Willaby, '[With vaccination rates stable, "no jab, no play" rules are beside the point](#)', *The Conversation*, 22 May 2013, accessed 13 October 2015; J Leask, '[Will stopping vaccine objectors from accessing payments have its desired impact?](#)', Human Factors blog, 11 April 2015, accessed 13 October 2015.

In summary, it is unlikely to make a meaningful difference to improving vaccination [sic] rates. It amounts to a form of mandatory vaccination for lower income families, but without a no-fault vaccine injury compensation system implemented alongside. Some children from lower income families will no longer be able to attend childcare. It almost certainly won't shift entrenched vaccine rejectors. As a monetary sanction it comes with insufficient evidence of its impact on vaccination rates, whereas Australia's current system of incentives comes with strong evidence for their impact on vaccination rates.<sup>74</sup>

Peter McIntyre from the National Centre for Immunisation Research and Surveillance suggested that the measures offered a new approach but that their impact beyond vaccination rates would also need to be monitored:

This is something that hasn't really been tried before ... We have had evidence from the US that if you increase the hassle factor of objecting, then a significant number of people decide to just do it, feeling that objecting just isn't worthwhile.

...

It could be a stunning success in terms of increasing vaccination rates, but any undesired consequences must be monitored as well.<sup>75</sup>

David Isaacs from the University of Sydney stated that immunisation rates were still strong and questioned the need for 'draconian' measures: 'My suspicion is all you'll do through this policy is alienate anti-vaxxers more and then you'll have a resentful group of suspicious people less likely to listen to government advice'.<sup>76</sup>

President of the Australian Medical Association, Brian Owler, has stated concern that there would be budget savings from the measure as it meant that a number of people are not going to be vaccinated: 'what we should be saying is we need to make sure that we get all those people vaccinated and we should be aiming to actually continue to spend the same amount on those sorts of Family Tax Benefits'.<sup>77</sup>

A small study of 38 'vaccine hesitant' families referred to an immunisation clinic in Melbourne found that 25 per cent proceeded to full immunisation following their referral. Of the 11 per cent who identified as 'vaccine refusers', none opted for immunisation. One of the authors of the study, Margie Danchin from the Royal Children's Hospital in Melbourne and the Murdoch Children's Research Institute, described the 'no jab, no pay'-type policies as:

... targeting under-vaccination with a very blunt instrument. They will have the most effect on families who have access issues or are complacent. But for families who have true hesitancy and questions about vaccination, personally I believe a punitive approach is not helpful.<sup>78</sup>

In summary, the policy is expected to see an increase in immunisation rates but questions have been raised as to the extent of the impact, and whether alternative policies could deliver similar, or improved, increases in immunisation coverage.

### ***Issues around the rights of parents and consent***

In its rationale for the measures, the Government has made a moral argument that taxpayers should not support the decision of certain families to not vaccinate their children.<sup>79</sup> This is because such a decision increases the risk that other children and vulnerable members of the community will contract an infectious disease. Minister for Health, Sussan Ley, has stated that it is 'alarming' that there is a view that vaccination is not the best thing to do for children and that 'in this area a stick as well as a carrot is needed' in order to protect others:

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74. J Leask, '[Will stopping vaccine objectors from accessing payments have its desired impact?](#)', op. cit.

75. P McIntyre quoted in M Davey, '[Coalition's "no jab, no pay" policy elicits mixed feelings in health professionals](#)', *The Guardian*, (online edition), 13 April 2015, accessed 14 October 2015.

76. D Isaacs quoted in *ibid*.

77. B Owler (President, Australian Medical Association), '[Transcript of doorstep interview: Parliament House, Canberra](#)', media release, 13 May 2015, accessed 14 October 2015.

78. M Danchin quoted in A Klein, '[Help, not hardball, boosts vax uptake](#)', *Australian Doctor*, 25 September 2015, p. 6, accessed 14 October 2015.

79. S Morrison, '[Second reading speech: Social Services Legislation Amendment \(No Jab, No Pay\) Bill 2015](#)', op. cit.

We know that the responsibility does rest on parents, and sometimes when you connect that responsibility with a payment, such as family tax benefit, people's approach might change. It is vital that, as a government, we stay on top of this and keep our vaccination rates as high as possible. Remember that by vaccinating everyone who can be vaccinated, you protect those who cannot.<sup>80</sup>

Columnist for *The Australian*, Janet Albrechtsen, argued in support of the measures:

There is nothing conscientious about the decision of parents not to vaccinate their children. It is a reckless, uninformed decision that puts the lives of many others, not just their children, at risk.

Why should taxpayer funds be directed to those who cannot exercise the most basic civic responsibility?<sup>81</sup>

Opponents of the measures have argued that while they do not force them to vaccinate their children, by threatening a significant financial penalty they effectively remove the right of parents to make an informed decision, or give informed consent, as to whether or not to vaccinate their children. While this argument is often put alongside arguments over the risks/benefits of vaccination, it is separate—this line of argument questions whether the public health aims of measures such as those proposed in the Bill should override individual rights. As one submission to the Senate Committee inquiry on the Bill argued: ‘The government does not have the right to determine that a medical procedure or intervention is to be imposed on people irrespective of their agreement or consent’.<sup>82</sup>

The rights of parents who are vaccine objectors need to be weighed against the rights of other parents and the rights of children (of both sets of parents). In its discussion of the Bill’s engagement of Article 18 of the *International Covenant on Civil and Political Rights* (the right to freedom of thought, conscience and religion), the Statement of Compatibility with Human Rights states that this article provides that such freedoms ‘may be subject to limitations as prescribed by law and which are necessary to protect public health or the fundamental rights and freedoms of others’.<sup>83</sup> It is the view of the Government that a vaccine objection can ‘limit the rights of others to physical and mental health’.<sup>84</sup> As such, if the Bill does override the individual rights of some vaccine objectors, the measures can be considered justified on the basis that they protect the fundamental rights of other individuals in the community, and public health in general.

However, the Parliamentary Joint Committee on Human Rights has questioned whether this justification has been established. The Committee found that the Statement on Compatibility fails to link the measures with the objective of increasing immunisation rates and, therefore, protecting public health:

... no information is provided to explain whether the measures would be likely to be effective in achieving the objective of encouraging vaccination. It is not clear to the committee whether these particular measures which result in certain family assistance payments being withheld would be likely to encourage persons with strongly held objections to vaccinate their child.<sup>85</sup>

The Committee has sought further information from the Government as to ‘whether there is a rational connection between the limitation and the stated objective’.<sup>86</sup> As discussed above, a number of health researchers have also questioned this link and suggested alternative measures to improve vaccination rates. The Committee has also asked the Government to provide information as to whether less restrictive options which would achieve the same objective have been explored.<sup>87</sup>

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80. S Ley (Minister for Health), ‘[Consideration in detail: Appropriation Bill \(No. 1\) 2015–16](#)’, House of Representatives, *Debates*, 22 June 2015, p. 7143, accessed 14 October 2015.

81. J Albrechtsen, ‘[No “rights” for unsafe children](#)’, *The Weekend Australian*, 18 April 2015, p. 21, accessed 14 October 2015.

82. C Clinch-Jones, [Submission](#) to Senate Community Affairs Legislation Committee, *Inquiry into the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015*, 2015, 253, p. 2, accessed 13 October 2015.

83. Statement of Compatibility with Human Rights, [Explanatory Memorandum](#), Social Services Legislation Amendment (No Jab, No Pay) Bill 2015, p. 2, accessed 14 October 2015.

84. *Ibid.*

85. Parliamentary Joint Committee on Human Rights, *op. cit.*, p. 33.

86. *Ibid.*

87. *Ibid.*

## The issue of consent

The proposed measures do not mandate anyone to vaccinate their children. However, opponents argue that the threat of financial penalty constitutes coercion and undermines any ability to provide valid consent.<sup>88</sup>

Submissions to a recent inquiry by the Queensland Parliament's Health and Ambulance Services Committee—into a Bill providing greater power to childcare providers to refuse or cancel the enrolment of unvaccinated children—cited the *Australian Immunisation Handbook* requirements for legally valid consent which include: 'It must be given voluntarily in the absence of undue pressure, coercion or manipulation'.<sup>89</sup> While the financial penalty/incentive could be high for some families, it is unclear whether it should be classified as 'undue' pressure.

In the case of childhood immunisation, the issue of consent is complicated by the fact that parents/carers are consenting on behalf of their children and that, arguably, parents only have that right insofar as they are making decisions in their child's best interests.<sup>90</sup> In regards to the broader issue of consent for immunisation, Grant Gillett from Dunedin Hospital and Simon Walker from the Otago Bioethics Centre have argued:

... the sometimes perfunctory consent processes on behalf of children are ethically adequate in that it is (objectively) in every child's best interest to be a member of a community sharing herd immunity, and the child is not yet capable of an autonomous decision otherwise. In fact, we could go further and say that we have a *duty* to immunise children just as we have a duty to protect them from the subjectively distorted judgments of adults leading to abuse or neglect in other areas of parenting.<sup>91</sup>

## Impact on children at risk of abuse or neglect

The Bill will add a requirement for children deemed at risk of abuse or neglect to be fully immunised before a childcare service can receive CCB for care provided to that child. Childcare services providing care to an 'at risk' child may receive a higher rate of CCB known as Special Child Care Benefit (SCCB), which covers the full-fee cost of care provided.<sup>92</sup> Limitations apply to the duration and amount of SCCB that can be paid but there are few restrictions on eligibility for a particular child to have SCCB paid in respect of them other than the childcare service considers them at serious risk of abuse or neglect.<sup>93</sup>

While there is no specific data correlation between children identified as at risk of abuse or neglect and low immunisation rates, there is some evidence linking factors such as low income, low education, unemployment, low social contact and service information, and child health issues with incomplete vaccination (but excluding those objecting to vaccinations).<sup>94</sup>

Children at risk of abuse or neglect face multiple barriers to attending childcare services, including affordability, transport difficulties, parents' distrust of institutions and concern they will be judged.<sup>95</sup> Full or high rates of

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88. J Parker, [Submission](#) to Senate Community Affairs Legislation Committee, *Inquiry into the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015*, 29 September 2015, 246, p. 1, accessed 14 October 2015.

89. Queensland Health and Ambulance Services Committee, [Public Health \(Childcare Vaccination\) and Other Legislation Amendment Bill 2015](#), Report, 5, 55th Parliament, Parliament of Queensland, October 2015, p. 31, accessed 14 October 2015; DoH, '2.1.3 – Valid consent', [The Australian immunisation handbook](#), 10th edn, DoH website, last updated 16 July 2015, accessed 14 October 2015.

90. G Gillett and S Walker, '[Immunisation and minimally informed consent](#)', *Journal of Law and Medicine*, 20(4), June 2013, p. 727, accessed 15 October 2015.

91. *Ibid.*, pp. 726–727.

92. Special Child Care Benefit can be paid to parents/carers or services where a child is at risk of abuse or neglect or the parent/carer of the child is experiencing financial hardship. For those in financial hardship, the parent/carer must be conditionally eligible for CCB so will also have to meet the proposed new immunisation requirements. DSS, '[Special Child Care Benefit fact sheet](#)', DSS, Canberra, March 2015, accessed 16 October 2015.

93. Services base their decision regarding the risk of abuse or neglect on a range of relevant information sources, including from the parent or carer, observations made by childcare service staff, or information from a relevant welfare agency such as child protection services. *Ibid.*, p. 2.

94. A Pearce, H Marshall and H Bedford, '[Barriers to childhood immunisation: findings from the Longitudinal Study of Australian Children](#)', *Vaccine*, 33(29), 26 June 2015, pp. 3377–3383, accessed 15 October 2015; B P Hull, PB McIntyre and GP Sayer, '[Factors associated with low uptake of measles and pertussis vaccines — an ecologic study based on the Australian Childhood Immunisation Register](#)', *Australian and New Zealand Journal of Public Health*, 25(5), October 2001, pp. 405–410, accessed 15 October 2015.

95. Productivity Commission (PC), [Childcare and early childhood learning](#), Report, 73, vol. 2, PC, Canberra, 31 October 2014, p. 528, accessed 16 October 2015.

childcare subsidies are considered necessary to assist the inclusion of these children in childcare services.<sup>96</sup> The additional assistance provided by SCCB to promote this inclusion is justified on the basis that:

- it can reduce the amount of time a child spends in a risk environment
- it increases the amount of time a child spends in a stable and developmentally beneficial environment
- it assists these children to remain visible in the community and can help link families with appropriate services and
- it provides parents/carers with an opportunity for respite or to seek assistance from welfare and health services.<sup>97</sup>

Introducing immunisation requirements for services accessing SCCB to provide care for at risk children adds an additional barrier for this group to accessing education and care services. There is a risk that by adding this barrier, and forcing some childcare services to turn away children at risk of abuse and neglect, who also happen to have incomplete vaccination schedules, they will be exposing these children to other health risks and denying them and their families the benefits of early childhood education and care.

## **Provisions**

### **A New Tax System (Family Assistance) Act 1999**

**Items 1 and 3** repeal the definition of *conscientious objection* in section 5 and in the list of definitions in subsection 3(1) of the *FA Act*.

**Item 2** inserts a new definition for *general practitioner* at subsection 3(1)—the definition is to be same as in the *Health Insurance Act 1973*.

**Item 4** repeals subsections 6(3) to (8)—which provide for children to meet the immunisation requirements for CCB and the FTB-A supplement where there is a conscientious objection, medical contraindication, natural immunity, the child is in an exempt class of children set out in a determination or other circumstances set out by the Minister for Social Services in a legislative instrument—and substitute **proposed subsections 6(3) to (7)**. The proposed new subsections provide for a child to be considered to meet the immunisation requirements for CCB and FTB-A supplement where:

- a general practitioner has certified in writing that the immunisation of the child would be medically contraindicated, or that the child has a natural immunity to a disease or diseases, or that the child is a participant in a vaccine study approved by the Human Research Ethics Committee registered with the National Health and Medical Research Council
- the Commonwealth Chief Medical Officer has certified that a vaccine is temporarily unavailable and the Secretary (of the Department of Social Services or the Department of Education and Training) is satisfied that if the vaccine had been available the child would have been immunised
- a recognised immunisation provider certifies that vaccines received by a child while they were outside Australia have provided the child with the same level of immunisation as they would have acquired had they been vaccinated in accordance with a standard vaccination schedule or catch up vaccination schedule, and they have received all other vaccinations in accordance with the relevant schedule or
- the Secretary (of the Department of Social Services or the Department of Education and Training) makes a determination that the child meets the immunisation requirements, following any decision-making principles set out in a legislative instrument made by the Minister for this purpose.

No detail has been provided in regards to what decision making principles are intended for this last provision, or what circumstances this discretion on the part of the Secretary is intended to cover. The current requirements state that certain classes of children set out in legislative instruments can be exempted from the immunisation requirements. The current instruments cover classes that are to be included in the *FA Act* under the proposed amendments—including participants in vaccine studies, children immunised overseas and where there is a temporary unavailability of a vaccine. They also currently cover members of the Church of Christ, Scientist

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96. Ibid.

97. Ibid., p. 532.

(which will no longer apply) and provide an exemption from the CCB immunisation requirements where the child is classed as being unable to be immunised due to 'exceptional circumstances'.<sup>98</sup> An example appending the exceptional circumstances exemption describes natural disaster situations.<sup>99</sup> The new discretionary powers for the Secretary may be intended to cover similar disaster situations but this has not been set out in the Explanatory Memorandum.

While the legislative instrument setting out the decision making principles will be subject to parliamentary scrutiny, the determinations made by the Secretary in accordance with these principles will not. This provides a significant level of discretionary power to the departments to exempt individuals from the immunisation requirements, and therefore to meet one of the eligibility requirements for certain family assistance payments, without any parliamentary or public scrutiny (in the form of published determinations).

**Item 5** repeals section 7, which currently provides for the Minister to make the legislative instruments exempting certain classes from the immunisation requirements referred to above.

**Item 6** amends paragraph 42(1)(c) so that all children aged under 20 years will need to meet the immunisation requirements to be eligible for CCB paid via a fee-reduction at an approved childcare provider, not just those aged under seven and born on or after 1996. This change will affect older children attending approved childcare services such as outside school-hours care services.

**Item 7** inserts **proposed subsection 42(1AA)** which effectively removes the 63 day grace period for a child to meet the CCB immunisation requirements for those parents/carers who have been given a notice to do so. The subsection prevents the grace period provisions at subparagraphs 42(1)(c)(ii) and (iii) from applying when a person's claim for CCB to be paid via a fee-reduction is being determined. This means that children must already be up-to-date with their immunisation schedules to be eligible for CCB. It is unclear why, if the intent is to no longer allow for a grace period to meet the immunisation requirements, that the relevant grace period provisions are not being repealed.

**Item 8** amends **subsection 44(2)** so that all children under 20 years will need to meet the immunisation requirements to be eligible for CCB paid in respect of past-periods of approved childcare (usually paid as a lump sum), not just those aged under seven and born on or after 1996. **Item 9** makes a similar amendment to subsection 45(2) so that the new age requirements apply in relation to registered care providers.<sup>100</sup>

**Item 10** inserts **proposed paragraph 47(1)(c)** so that approved child care services will only be eligible for CCB by fee reduction for a child at risk of serious abuse or neglect if the child meets the immunisation requirements. Services providing care for a child at risk can receive SCCB which covers the full cost of the child's weekly childcare fees. As discussed above, preventing children at risk of abuse or neglect from accessing free childcare places on the basis of incomplete immunisation schedules could heighten the risk of abuse or neglect. While it is possible that such children could be granted an exemption from the immunisation requirements by the Secretary, it is not clear if this is one of the circumstances to be covered by the Secretary's discretionary powers.

**Items 11–18** make amendments to the immunisation requirements for the FTB-A supplement set out at section 61B so that the requirements apply in each income year (financial year) regardless of what age the child reaches in that year. Currently the requirements only apply in the years the child turns one, two or five years.

## Concluding comments

The Bill will remove the conscientious objection exemption from the CCB, CCR and FTB-A supplement immunisation requirements, and apply the requirements to children of all ages. The measures are likely to see some conscientious objectors change their positions, as well as see a large number of older children undertake catch-up vaccinations, but will also see many people no longer qualifying for these payments, generating budget savings of over \$500 million over four years. The measures have been controversial amongst both conscientious

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98. [Child Care Benefit \(Immunisation Requirements\) \(DEEWR\) Determination 2013](#), accessed 15 October 2015; [Family Assistance \(Meeting the Immunisation Requirements\) \(FaHCSIA\) Determination 2012](#), accessed 15 October 2015; [Family Assistance \(Exemption from Immunisation Requirements\) \(FaHCSIA\) Determination 2012](#), accessed 15 October 2015.

99. [Child Care Benefit \(Immunisation Requirements\) \(DEEWR\) Determination 2013](#), section 8, accessed 15 October 2015.

100. Registered care providers are generally grandparents, relatives, friends or nannies registered with the Department of Human Services (or individuals working in other education and care services). These providers are not subject to the same regulations and qualification requirements as approved care providers and a much lower rate of CCB is provided in respect of care provided by registered care providers. See Australian Government, ['What is registered child care?'](#), mychild.gov.au website, last updated 21 July 2015, accessed 15 October 2015.

objectors and some health researchers, the latter holding that less punitive measures could achieve a similar aim of increased immunisation rates. There are also concerns that the measures will punish parents and carers who are not opposed to vaccines, but are behind on their children's vaccination schedules for practical, financial or other reasons. The potential impact on children at risk of abuse and neglect, particularly in terms of limiting their access to early childhood education and care, is of particular concern. While this issue may be addressed through the use of the departments' new discretionary powers, no detail has been provided as to the intent of these powers.

The changes send a clear message from the Government to parents that children's immunisation is important and expected if they are to receive certain forms of financial support. However, it is questionable whether this policy approach is the best way to boost immunisation coverage and engage with those parents hesitant or confused as to the benefits of vaccination.

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