

## **APPENDIX A**

### **CURRENT REGULATORY REQUIREMENTS BY STATE AND TERRITORY**

#### **No Jab No Pay – federal law applicable in all states**

A vaccination requirement for the purpose of eligibility to federal childcare subsidies and certain family payments was in force between 1998 and 2015 inclusive, but included a provision for conscientious objection exemptions.

The federal 'No Jab No Pay' law, effective from 01 January 2016, abolished conscientious objection exemptions. The vaccination requirement was also extended to children up to the age of 20 years.<sup>1</sup>

#### **No Jab No Play**

'No Jab No Play' laws currently operate in three states, New South Wales, Victoria, and Queensland. In general, these laws require children to be completely vaccinated according to the schedule and apply to most services providing care and education to children up to and including the year prior to the compulsory education phase. In Queensland, an opt-in model is used. A description of the 'No Jab No Play' models used in these states is provided in the following sections.

The other five states and territories do not currently mandate that children be completely vaccinated for enrolment in childcare and early education services.

#### **No Jab No Play – New South Wales**

Effective from 01 January 2018, children must be completely vaccinated (including booster doses) in accordance with the New South Wales Immunisation Schedule in order to be enrolled in most childcare and early education services.<sup>2</sup>

The only exemptions to the vaccination requirement available to all children are for those:

- with a medical contraindication to vaccination; or
- undergoing a catch-up schedule.

See section 87 (1) NSW Public Health Act.<sup>3</sup>

Exemptions are also available, under a 12 week grace period, to children from certain vulnerable and disadvantaged groups:

- Children subject to a guardian order or in out-of-home care; and
- Children, who through exceptional circumstances, are determined to be in need of protection and/or placed in emergency care (e.g. children placed in emergency foster care; parent/guardian of a child needing urgent health care and the child is placed in emergency care); and

- Children evacuated following a declared natural disaster; and
- Children of Aboriginal or Torres Strait Islander descent.

See section 87 (3) NSW Public Health Act and section 44A (1) Public Health Regulations.<sup>4</sup>

## **No Jab No Play – Victoria**

The Victorian law, effective from 1 January 2016, is a blanket law almost identical to the New South Wales law, with some minor differences. For example, the Victorian law provides for an additional exemption for the children of Health Care Card holders, and uses a 16 week grace period with respect to vulnerable and disadvantaged groups.

## **No Jab No Play – Queensland**

The Queensland ‘No Jab No Play’ law differs from the Victorian and New South Wales model in that childcare and early childhood education services have the discretion, under an **opt in** model, to implement the vaccination requirement, but are not required to do so.

According to media reports, most childcare and early childhood education services in Queensland have not been exercising the option to implement vaccination requirements.<sup>5</sup>

A spokesperson for C & K childcare, which runs 143 centres in Queensland, stated:

We do not exclude children on the basis of their immunisation status. We support the right of every child to have a quality early childhood education experience.<sup>6</sup>

Despite the low participation rate in ‘No Jab No Play’ by childcare and early childhood education services in Queensland, that state’s vaccination rate for five year olds was at 94.46% for the quarter ending September 2018.<sup>7</sup>

## **Documentation requirements in the other five states and territories**

Three jurisdictions, Tasmania, South Australia and the Australian Capital Territory, have mandatory documentation requirements whereby parents, when enrolling their children, must provide vaccination history statements, showing which vaccines, if any, their child has received. Even though this type of regulatory requirement does not require children to be completely vaccinated, such a requirement serves as a simple, non-coercive reminder to parents who choose to vaccinate their children. The vaccination history documentation can also be used to identify incompletely vaccinated children in the event of disease outbreaks.

The other two jurisdictions, Western Australia (up to 31 December 2018) and the Northern Territory, have the option to request that parents provide vaccination history statements when enrolling their children.<sup>8</sup>

Effective from 01 January 2019, Western Australia has implemented mandatory documentation requirements similar to Tasmania, South Australia and the Australian Capital Territory.<sup>9</sup>

## Vaccination rates by state and territory relative to degree of regulation

Vaccination coverage rates are calculated for three age cohorts (1, 2 and 5 year olds), and published on the federal Department of Health website.<sup>10</sup> With respect to the 2 year old cohort, there is a disclaimer to the effect that changes to the definition of “fully immunised” has artificially reduced coverage rates, which will resolve over time. For this reason, reliance on data for the 2 year old cohort is not valid for the purpose of policy-making decisions.

In the table below vaccination coverage rates in all states and territories for the 5 year old cohort are contrasted with the degree of regulation applicable in each jurisdiction.

**Table 1 – Vaccination rates relative to degree of regulation**

State/Territory	Enrolment Requirements <sup>11</sup>	Vaccination rate (%) as at 30/09/2018 5 year old cohort
<b>Tas</b>	Vaccination history documentation only (mandatory)	95.55
<b>Vic</b>	No Jab No Play (mandatory vaccination)	95.48
<b>A.C.T.</b>	Vaccination history documentation only (mandatory)	94.80
<b>NSW</b>	No Jab No Play (mandatory vaccination)	94.56
<b>Qld</b>	No Jab No Play (opt-in model – implementation of mandatory vaccination at the discretion of the service)	94.46
<b>SA</b>	Vaccination history documentation only (mandatory)	94.44
<b>N.T.</b>	Vaccination history documentation (not mandatory)	93.30
<b>WA</b>	Vaccination history documentation (not mandatory up to 31 Dec 2018)	93.15

## Discussion

What is immediately apparent is that the three states with only vaccination history documentation requirements, have been able to achieve vaccination rates approximately as high as, or higher than states with mandatory vaccination, with Tasmania recording the highest rate (for five year olds).

These results would suggest that vaccination rates in Western Australia would be expected to increase as a result of the mandatory documentation requirements which commenced on 01 January 2019, obviating the need for a coercive, exclusionary 'No Jab No Play' law in the first place.

Queensland has also achieved high vaccination rates, even though mandatory vaccination is optional, at the discretion of services.

There is no evidence that the national aspirational target of 95%, which is based on nothing more than questionable computer modelling, is necessary to control diseases.

## References

- 1 Social Services Legislation Amendment (No Jab, No Pay) Bill 2015  
[https://www.aph.gov.au/Parliamentary Business/Bills LEGislation/Bills Search Results/Result?bld=r5540](https://www.aph.gov.au/Parliamentary_Business/Bills_LEGislation/Bills_Search_Results/Result?bld=r5540)
- 2 Public Health Amendment (Review) Bill 2017  
<https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3426>
- 3 Public Health Act 2010 No 127, section 87 (1)  
<https://www.legislation.nsw.gov.au/#/view/act/2010/127/part5/div4/sec87>
- 4 Ibid., section 87 (3)  
Public Health Regulation 2012, section 44A (1)  
<https://www.legislation.nsw.gov.au/#/view/regulation/2012/311/part7/div2/sec44a>
- 5 2016, Queensland childcare centres still accepting unvaccinated children despite new laws, ABC News  
<https://www.abc.net.au/news/2016-03-18/qld-childcare-centres-still-accepting-unvaccinated-children/7256964>
- 6 Ibid.
- 7 Current coverage data tables for all children, 5 year olds, Department of Health (accessed 16 October 2018)  
<https://beta.health.gov.au/health-topics/immunisation/childhood-immunisation-coverage/current-coverage-data-tables-for-all>
- 8 2018, No Jab No Play, No Jab No Play, National Centre for Immunisation Research and Surveillance  
<http://www.ncirs.org.au/public/no-jab-no-play-no-jab-no-pay>
- 9 Immunisation enrolment requirements for child care services, kindergarten and schools  
[https://ww2.health.wa.gov.au/Articles/F I/Immunisation-enrolment](https://ww2.health.wa.gov.au/Articles/F_I/Immunisation-enrolment)
- 10 Current coverage data tables for all children, Department of Health (accessed 16 October 2018)  
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- 11 2018, No Jab No Play, No Jab No Play, National Centre for Immunisation Research and Surveillance  
<http://www.ncirs.org.au/public/no-jab-no-play-no-jab-no-pay>