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 <p>Australian Government Department of Social Services</p>	<p>Submission For decision MS15-001699 REDRAFT</p>
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To Minister for Social Services

Subject Social Services Legislation Amendment (No Jab, No Pay) Bill – approval for introduction

Critical Date Please action by 11 September 2015, to allow the Bill to be introduced in the week commencing on 14 September 2015.

Recommendations: That you

<p>1. Approve the text of the Bill, explanatory memorandum and second reading speech at Attachments A, B and C.</p> <p>2. Sign the suggested letter to the Prime Minister at Attachment D.</p> <p>3. Note the need to seek party clearance on the Bill, using the suggested brief at Attachment E, and for briefing the Prime Minister’s office using the suggested brief at Attachment F.</p> <p>Minister's signature</p>	<p>Agreed / Not Agreed</p> <p>Signed / Not Signed</p> <p>Noted / Please Discuss</p> <p>Date...../...../2015</p>
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<p>Minister’s Comments</p>				
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<p>Rejected <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Timely Yes/No</p>	<p>Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant</p>	<p>Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief</p>	<p>Quality Poor 1.....2.....3.....4.....5 Excellent Comments:</p>
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Purpose:

1. To seek your approval of the text of the Bill, explanatory memorandum and second reading speech. Also to recommend you seek necessary approval from the Prime Minister, and note the need for party clearance and briefing the Prime Minister’s office.

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Key Issues:

2. The Bill will introduce a further 2015 Budget measure relevant to families. From 1 January 2016, the Bill will ensure children fully meet immunisation requirements before their families can access Child Care Benefit, Child Care Rebate or the Family Tax Benefit Part A supplement. Exemptions will generally only apply for valid medical reasons, although a new provision has been included so the Secretary will be able to determine that a child meets the immunisation requirements after considering any decision-making principles set out in a legislative instrument made by the Minister.
3. Your approval is recommended for the text of the Bill, explanatory memorandum and second reading speech at **Attachments A, B and C**.
4. Approval from the Prime Minister is needed for several aspects of the measure, including to extend the immunisation requirements to children of all ages up to 19 in place of the current arrangement of checking only at specified lower ages, to confirm the medically-focused scope of the exceptions to the immunisation requirements, and the new legislative instrument exemption. A suggested letter to the Prime Minister is at **Attachment D**. No other ministers need to give approval in relation to this Bill.
5. The Bill and related materials have been finalised in consultation with the Family and Student Payments Policy Branch and the Child Care Payments Policy Branch.

Financial Implications:

6. This Bill is expected to produce savings of \$508.3 million over the forward estimates.

Regulatory Implications:

7. N/A

Media Release:

8. Any media release would be handled separately.

Name: Joanna Carey Date:
Position: Deputy Chief Legal Counsel and Branch Manager
Branch: Portfolio Governance, Welfare and Employment Law Branch
Phone/Mobile: s22

Contact Officer: s22
Position: Legislation Liaison Officer
Branch: Portfolio Governance, Welfare and Employment Law Branch
Phone/Mobile: s22

Attachments:

Attachment A: Bill
Attachment B: Explanatory memorandum
Attachment C: Second reading speech
Attachment D: Letter to the Prime Minister
Attachment E: Party brief
Attachment F: PMO brief

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MO Action Due Date	10 September 2015
History	N/A
Consultation	Budget Development Branch <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Communication & Media Branch <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Project & Deregulation Office <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Programme Office <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Other Department <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	Group Manager (Janean Richards) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	Deputy Secretary (Michael Lye) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	State Manager (insert name) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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2013-2014-2015

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

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

No. , 2015

(Social Services)

**A Bill for an Act to amend the law relating to
family assistance, and for related purposes**

B15ZA398.v11.docx 9/9/2015 11:48 AM

Contents

1 Short title	1
2 Commencement	1
3 Schedules	2
Schedule 1—Amendments	3
<i>A New Tax System (Family Assistance) Act 1999</i>	3

OPC drafter to complete	
1. Does this Bill need a message? (See H of R Practice, sixth ed, pp. 423-427, and OGC advice.) If yes: • List relevant clauses/items— • Prepare message advice (see Drafting Direction 4.9) • Give a copy of the message advice to the Legislation area.	No
2. Does this Bill need a notice? (See H of R Standing Order 178 and Drafting Direction 3.2.) If no list relevant clauses/items—	Yes
3. Is there any constitutional reason why this Bill should not be introduced in the Senate? (See Constitution sections 53 and 55 and Drafting Direction 3.2.)	No

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A Bill for an Act to amend the law relating to family assistance, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Services Legislation Amendment (No Jab, No Pay) Act 2015*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in	The day this Act receives the Royal Assent.	

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
this Act not elsewhere covered by this table		
2. Schedule 1	1 January 2016.	1 January 2016

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

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

7 **3 Schedules**

8 Legislation that is specified in a Schedule to this Act is amended or
 9 repealed as set out in the applicable items in the Schedule
 10 concerned, and any other item in a Schedule to this Act has effect
 11 according to its terms.

1 **Schedule 1—Amendments**
2

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

4 **1 Subsection 3(1) (definition of conscientious objection)**

5 Repeal the definition.

6 **2 Subsection 3(1)**

7 Insert:

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

10 **3 Section 5**

11 Repeal the section.

12 **4 Subsections 6(3) to (8)**

13 Repeal the subsections, substitute:

14 *Medical contraindication, natural immunity and vaccine study*

15 (3) The child meets the immunisation requirements if:

- 16 (a) a general practitioner has certified in writing that the
17 immunisation of the child would be medically
18 contraindicated under the specifications set out in the
19 Australian Immunisation Handbook; or
20 (b) a general practitioner has certified in writing that the child
21 does not require immunisation because the child has
22 contracted a disease or diseases and as a result has developed
23 a natural immunity; or
24 (c) the child is a participant in a vaccine study approved by a
25 Human Research Ethics Committee registered with the
26 National Health and Medical Research Council.

27 *Temporary unavailability of vaccine*

28 (4) The child meets the immunisation requirements if:

- 1 (a) the child has not received a vaccination at a particular age;
- 2 and
- 3 (b) the person who occupies, or is acting in, the position of
- 4 Commonwealth Chief Medical Officer has certified in
- 5 writing that the vaccine for that vaccination is, or all of the
- 6 vaccines for that vaccination are, temporarily unavailable;
- 7 and
- 8 (c) if that vaccine, or one of those vaccines, had been available,
- 9 the Secretary is satisfied that the child would have been
- 10 immunised; and
- 11 (d) that vaccine has not, or none of those vaccines have, become
- 12 available.

13 *Child vaccinated overseas*

- 14 (5) The child meets the immunisation requirements if:
- 15 (a) the child has received one or more vaccinations while outside
- 16 Australia; and
- 17 (b) a recognised immunisation provider has certified in writing
- 18 that those vaccinations have provided the child with the same
- 19 level of immunisation that the child would have acquired if
- 20 the child had been vaccinated in accordance with a standard
- 21 vaccination schedule, or a catch up vaccination schedule,
- 22 determined under section 4; and
- 23 (c) the child has received, whether in or outside Australia, all the
- 24 other vaccinations in accordance with a standard vaccination
- 25 schedule, or a catch up vaccination schedule, determined
- 26 under section 4.

27 *Secretary's decision*

- 28 (6) The child meets the immunisation requirements if the Secretary
- 29 determines in writing that the child meets the immunisation
- 30 requirements.
- 31 (7) In making a determination under subsection (6), the Secretary must
- 32 comply with any decision-making principles set out in a legislative
- 33 instrument made by the Minister for the purposes of this
- 34 subsection.

1 **5 Section 7**

2 Repeal the section.

3 **6 Paragraph 42(1)(c)**

4 Omit “under 7 and born on or after 1 January 1996”, substitute “under
5 20”.

6 **7 After subsection 42(1)**

7 Insert:

8 (1AA) Subparagraphs (1)(c)(ii) and (iii) do not apply in relation to an
9 individual in connection with the Secretary determining a claim by
10 the individual for payment of child care benefit by fee reduction
11 for care provided by an approved child care service.

12 **8 Subsection 44(2)**

13 Omit “under 7 and is born on or after 1 January 1996”, substitute “under
14 20”.

15 **9 Subsection 45(2)**

16 Repeal the subsection, substitute:

17 *Requirement relating to immunisation referred to in*
18 *paragraph (1)(g)*

19 (2) For the purposes of paragraph (1)(g), the requirement relating to
20 immunisation is that, if the child is under 20, the child must meet
21 the immunisation requirements set out in section 6.

22 **10 At the end of subsection 47(1)**

23 Add:

24 ; and (c) the child meets the immunisation requirements set out in
25 section 6.

26 **11 Subsection 61B(1)**

27 After “in an income year”, insert “(the *current income year*)”.

28 **12 Paragraph 61B(1)(a)**

29 Repeal the paragraph, substitute:

Schedule 1 Amendments

- 1 (a) the income year is:
2 (i) the income year in which the FTB child turned 1; or
3 (ii) any later income year; and

4 **13 Subsection 61B(2)**

5 After “in an income year”, insert “(the *current income year*)”.

6 **14 Paragraph 61B(2)(a)**

7 Repeal the paragraph, substitute:

- 8 (a) the income year is:
9 (i) the income year in which the FTB child turned 1; or
10 (ii) any later income year; and

11 **15 Paragraph 61B(3)(a)**

12 Omit “income year in which the FTB child turned 1, 2 or 5 (as the case
13 requires)”, substitute “current income year”.

14 **16 Subparagraph 61B(3A)(a)(iii)**

15 Omit “income year in which the FTB child turned 1, 2 or 5 (as the case
16 requires)”, substitute “current income year”.

17 **17 Paragraph 61B(3A)(b)**

18 Omit “income year in which the FTB child turned 1, 2 or 5 (as the case
19 requires)”, substitute “current income year”.

20 **18 Paragraph 61B(4)(a)**

21 Omit “income year in which the FTB child turned 1, 2 or 5 (as the case
22 requires)”, substitute “current income year”.

23 **19 Application and transitional provisions**

- 24 (1) The amendments made by this Schedule apply:
25 (a) in relation to working out whether FTB Part A supplement is
26 to be added, in working out an individual’s Part A rate of
27 family tax benefit, for a day on or after the commencement of
28 this item; and
29 (b) in relation to working out whether an individual, or an
30 approved child care service, is eligible for child care benefit

-
- 1 for care provided to a child on a day on or after the
2 commencement of this item.
- 3 (2) A certification mentioned in subsection 6(5) or (6) of the *A New Tax*
4 *System (Family Assistance) Act 1999* (as in force immediately before
5 the commencement of this item) that had effect immediately before that
6 commencement is taken, on and after that commencement, to be a
7 certification of a general practitioner for the purposes of
8 paragraph 6(3)(a) or (b) of that Act (as amended by this Act), as the
9 case requires.
- 10 (3) Sections 6 and 7 of the *A New Tax System (Family Assistance) Act*
11 *1999*, as in force immediately before the commencement of this item,
12 do not apply on or after that commencement in relation to days before
13 that commencement.
- 14 Note: Subitem (3) means, for example, that on or after the commencement of this item, an
15 individual cannot make a declaration under section 6 of that Act that he or she has a
16 conscientious objection to a child being immunised.

2013-2014-2015

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

SOCIAL SERVICES LEGISLATION AMENDMENT
(NO JAB, NO PAY) BILL 2015

EXPLANATORY MEMORANDUM

(Circulated by the authority of the
Minister for Social Services, the Hon Scott Morrison MP)

SOCIAL SERVICES LEGISLATION AMENDMENT (NO JAB, NO PAY) BILL 2015

OUTLINE

This Bill will introduce a 2015 Budget measure relevant to families. From 1 January 2016, the Bill will ensure children fully meet immunisation requirements before their families can access child care benefit, child care rebate or the family tax benefit Part A supplement.

Exceptions to the policy will apply only for valid medical reasons, such as when a general practitioner has certified that vaccinating the child would be medically contraindicated, or that vaccination is unnecessary because the child has natural immunity from having contracted the disease in question.

Families with children participating in an approved vaccine study will be taken to meet the immunisation requirements for the duration of the study, and similar rules will apply where a vaccine is temporarily unavailable.

The requirements will also be met if a recognised immunisation provider certifies that the child has an equivalent level of immunisation through an overseas vaccination programme.

Lastly, the Secretary will be able to determine that a child meets the immunisation requirements after considering any decision-making principles set out in a legislative instrument made by the Minister.

Immunisation requirements will also be extended to include children of all ages. At present, a child's vaccination status is only checked at ages one, two and five for the family tax benefit Part A supplement, and up to age seven for the child care payments.

Financial impact statement

This Bill is expected to produce savings of \$508.3 million over the forward estimates.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

The statement of compatibility with human rights appears at the end of this explanatory memorandum.

**SOCIAL SERVICES LEGISLATION AMENDMENT
(NO JAB, NO PAY) BILL 2015**

NOTES ON CLAUSES

Clause 1 sets out how the new Act is to be cited – that is, as the *Social Services Legislation Amendment (No Jab, No Pay) Act 2015*.

Clause 2 provides a table setting out the commencement dates of the various provisions of the new Act.

Clause 3 provides that legislation specified in a Schedule is amended or repealed as set out in that Schedule.

Schedule 1 – Amendments

Summary

This Schedule makes amendments to the immunisation requirements for recipients of family tax benefit Part A supplement, child care benefit and child care rebate, commencing on 1 January 2016. The changes will tighten the existing immunisation requirements for these payments, reinforcing the importance of immunisation and protecting public health, especially for children.

Background

In broad terms, a child must meet the immunisation requirements under the *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act) in order for an individual to be eligible for family tax benefit Part A supplement and child care benefit in respect of the child. A child meets the immunisation requirements if they have been immunised in accordance with the standard vaccination schedule or catch up vaccination schedule.

In some circumstances, a child may also meet the immunisation requirements despite not being immunised, including where there is a declaration in writing that an individual or adult has a conscientious objection to the child being immunised. This Schedule removes provisions that allow a child to meet the immunisation requirements on the basis of a conscientious objection.

Currently, a child may also meet the immunisation requirements if the child is in a class of persons determined in a legislative instrument by the Minister to be exempt from, or meet, those requirements. This Schedule removes the Minister's power to make such legislative instruments, and inserts into the Family Assistance Act some of the classes of person currently determined in the legislative instruments.

This Schedule also provides for new circumstances in which a person meets the immunisation requirements, on the basis of participation in a vaccine study or if the Secretary has determined in writing that the person meets the immunisation requirements.

Finally, this Schedule provides that payment of family tax benefit Part A supplement will be conditional on a child meeting the immunisation requirements in an income year in which an FTB child turns one and each later income year, not only in relation to income years in which the child turns one, two or five.

The amendments made by this Schedule commence on 1 January 2016.

Explanation of the changes

Amendments to the Family Assistance Act

Items 1 and 3 repeal the definition of ***conscientious objection*** contained in subsection 3(1) and section 5. These definitions will no longer be necessary as a result of the amendments made by item 4 of this Schedule, which mean a child will no longer meet the immunisation requirements on the basis of a conscientious objection to the child being immunised.

Item 2 inserts a new definition of ***general practitioner*** into subsection 3(1) of the Family Assistance Act. The term ‘general practitioner’ is used in new subsection 6(3), as inserted by item 4. ***General practitioner*** has the same meaning as in the *Health Insurance Act 1973*.

Item 3 repeals subsections 6(3) to (8), and substitutes new subsections 6(3) to (5).

Current subsections 6(3) and (4) provide for circumstances in which a child meets the immunisation requirements on the basis of a conscientious objection.

The amendments made by this item mean a child will no longer meet the immunisation requirements on the basis of a conscientious objection. A child may need to meet the immunisation requirements in order for an individual to be eligible for child care benefit or family tax benefit Part A supplement. This is intended to encourage parents and guardians, who would otherwise be eligible for these payments, to vaccinate their children.

New subsection 6(3) provides for when a person meets the immunisation requirements on the basis of a medical contraindication, natural immunity and vaccine study.

New paragraph 6(3)(a) provides that a child meets the immunisation requirements if a general practitioner has certified in writing that the immunisation of the child would be medically contraindicated under the specifications set out in the Australian Immunisation Handbook. Paragraph 6(3)(a) is similar to current subsection 6(5). However, a general practitioner, not a recognised immunisation provider, would now be required to make the certification in relation to medical contraindication. Following consultation with medical experts, it has been identified that the assessment of medical contraindication can be complex. It is therefore appropriate that this assessment is made by a general practitioner. If a diagnosis of medical contraindication is made by a medical specialist, then it is expected the specialist would refer the matter back to the person’s general practitioner who could then make the relevant certification for the purpose of new paragraph 6(3)(a).

Item 2 of this Schedule defines ***general practitioner*** by reference to the definition of that term in the *Health Insurance Act 1973*.

Schedule 1 – Amendments

New paragraph 6(3)(b) provides that a child meets the immunisation requirements if a general practitioner has certified in writing that the child does not require immunisation because the child has contracted a disease or diseases and, as a result, has developed a natural immunity. Paragraph 6(3)(b) is similar to current subsection 6(6). However, a general practitioner, not a medical practitioner, would now be required to make the certification in relation to natural immunity. The current definition of **medical practitioner** in subsection 3(1) of the Family Assistance Act would include a broader range of medical professionals than the definition of **general practitioner** in the *Health Insurance Act 1973*. It is appropriate that medical professionals who undertake vaccinations are those who can make a relevant certification in relation to natural immunity.

New paragraph 6(3)(c) provides that the child meets the immunisation requirements if the child is a participant in a vaccine study approved by a Human Research Ethics Committee registered with the National Health and Medical Research Council. This is a new circumstance in which a child is taken to meet the immunisation requirements. This will ensure families with children participating in a vaccine study will not be disadvantaged for the duration of the study. The out-dated provision for participants of the vaccine study conducted by the Murdoch Children's Research Institute (as contained in the *Family Assistance (Meeting the Immunisation Requirements) (FaHCSIA) Determination 2012* and the *Child Care Benefit (Immunisation Requirements) (DEEWR) Determination 2013*) will be removed as a consequence of items 4 and 5.

New subsection 6(4) provides that a child meets the immunisation requirements if:

- the child has not received a vaccination at a particular age; and
- the Commonwealth Chief Medical Officer has confirmed that the vaccine for that vaccination is, or all of the vaccines for that vaccination are, temporarily unavailable; and
- if that vaccine, or one of those vaccines, had been available, the Secretary is satisfied that the child would have been immunised; and
- that vaccine has not, or none of those vaccines has, become available.

New paragraph 6(4)(c) ensures the Secretary, in being satisfied that the child would have been immunised, considers whether the child has received all other vaccinations that the child is required to have received by that particular age.

This subsection ensures a child can meet the immunisation requirements in circumstances where a vaccine is temporarily unavailable. This circumstance is currently contained in the *Child Care Benefit (Immunisation Requirements) (DEEWR) Determination 2013* and the *Family Assistance (Meeting the Immunisation Requirements) (FaHCSIA) Determination 2012* made under subsection 7(2). Item 5 of this Schedule repeals section 7. It is still appropriate for a child to meet the immunisation requirements where a vaccine is temporarily unavailable, and this circumstance will now be included in the Family Assistance Act.

Schedule 1 – Amendments

The Commonwealth Chief Medical Officer, not a recognised immunisation provider, will now be responsible for confirming that a vaccine is, or all of the vaccines are, temporarily unavailable for the purposes of paragraph 6(4)(b). In practice, it is likely the Commonwealth Chief Medical Officer will have regard to the Medicines Shortage Information Initiative provided by the Therapeutic Goods Administration and other sources when considering whether there is a temporary unavailability of a vaccine. Consultation would likely also occur with the vaccine supplier.

New subsection 6(5) provides for the 'child vaccinated overseas' circumstance in which a child meets the immunisation requirements. Specifically, a child will meet the immunisation requirements on this basis if:

- the child has received one or more vaccinations while outside Australia; and
- a recognised immunisation provider has certified in writing that those vaccinations have provided the child with the same level of immunisation that the child would have acquired had the child been vaccinated in accordance with a standard vaccination schedule, or a catch up vaccination schedule; and
- the child has received all other vaccinations under a standard vaccination schedule, or a catch up vaccination schedule.

This circumstance is currently contained in the *Child Care Benefit (Immunisation Requirements) (DEEWR) Determination 2013* and the *Family Assistance (Meeting the Immunisation Requirements) (FaHCSIA) Determination 2012*.

New subsection 6(6) provides that a child meets the immunisation requirements if the Secretary determines in writing that the child meets the immunisation requirements. Before making such a determination, the Secretary will be required to comply with any decision-making principles set out in a legislative instrument made by the Minister for the purposes of new subsection 6(7). Any such instrument made by the Minister would be subject to Parliamentary scrutiny and disallowance. New subsections 6(6) and (7) will ensure that, in appropriate circumstances, the Secretary can determine that a particular child meets the immunisation requirements despite the child not meeting the requirements in any of the other subsections of section 6.

Current subsection 6(7) provides that the child meets the immunisation requirements if the child is in a class exempted, by a determination under subsection 7(1), from the requirement to be immunised. Current subsection 6(8) provides that the child meets the immunisation requirements if a determination in force under subsection 7(2) provides that the child meets the immunisation requirements. This item removes these circumstances in which a child meets the immunisation requirements because the amendments made by item 5 of this Schedule repeal section 7.

Item 5 repeals section 7. Current section 7 provides that the Minister may, by legislative instrument, determine that a child included in a specified class is exempt from the requirement to be immunised, or meets the immunisation requirements in circumstances specified in the determination. The effect of item 5 is therefore to remove the Minister's power to make determinations in relation to classes that are exempt from, or meet, the immunisation requirements.

Schedule 1 – Amendments

Some of the classes contained in current determinations made under section 7 will now be specified in section 6 of the Family Assistance Act as a result of item 4 of this Schedule. However, a person will no longer be exempt from the immunisation requirements on the basis that the child is an FTB child or regular care child of an individual who is a practising member of the Church of Christ, Scientist, or on the basis that the child is unable to be immunised due to exceptional circumstances (as currently contained in the *Family Assistance (Exemption from Immunisation Requirements) (FaHCSIA) Determination 2012* and the *Child Care Benefit (Immunisation Requirements) (DEEWR) Determination 2013*).

Items 6 to 9 amend the immunisation requirements in sections 42, 44 and 45.

Current subsection 42(1) provides that an individual is conditionally eligible for child care benefit by fee reduction for care provided by an approved child care service if the requirements set out in paragraphs 42(1)(a) to (c) are met. Relevantly, current paragraph 42(1)(c) provides that an individual is conditionally eligible for child care benefit by fee reduction where the child is under seven, was born on or after 1 January 1996 and meets one of the requirements detailed in subparagraph 42(1)(c)(i), (ii) or (iii).

Item 6 amends paragraph 42(1)(c) to refer to where the child is under 20 years of age and meets the requirements detailed in subparagraph 42(1)(c)(i), (ii) or (iii), instead of to where the child is under seven and born on or after 1 January 1996.

Currently, individuals who make a claim for payment of child care benefit by fee reduction for care provided by an approved child care service to a child are taken to satisfy the requirement in paragraph 42(1)(c) even if the child does not meet the immunisation requirements set out in section 6. In this situation, on determining the individual to be conditionally eligible, the Secretary will give the individual a notice to require that the child meet the immunisation requirement within 63 days of the notice (section 57E of the *A New Tax System (Family Assistance) (Administration) Act 1999* (Family Assistance Administration Act)). Effectively, this means that, on making a claim, an individual currently has a 63-day grace period to ensure the child meets the immunisation requirements in section 6 of the Family Assistance Act.

Item 7 inserts a new subsection 42(1AA), which has the effect of removing the 63-day grace period to ensure the child meets the immunisation requirements in section 6, on an individual making a claim. New subsection 42(1AA) provides that subparagraphs 42(1)(c)(ii) and (iii) do not apply to an individual in connection with the Secretary determining a claim by an individual for payment of child care benefit by fee reduction for care provided by an approved child care service. That is to say, from commencement of this item, when the Secretary determines a claim for conditional eligibility (under section 50F or 50G of the Family Assistance Administration Act), an individual will only satisfy paragraph 42(1)(c) of the Family Assistance Act if, at the time the Secretary makes the determination, the child meets the immunisation requirements set out in section 6.

Schedule 1 – Amendments

Current sections 44 and 45 provide that an individual is eligible for child care benefit for a past period of care, in relation to care provided by an approved child care service or care provided by a registered carer respectively, when the requirements of these sections are met.

Current subsection 44(2) and paragraph 45(2)(a) require, where the child is under seven and born on or after 1 January 1996, that the child meet the immunisation requirements set out in section 6. **Items 8 and 9** amend subsection 44(2) and subsection 45(2) to refer to where the child is under 20 years of age, instead of to whether the child is under seven and born on or after 1 January 1996. Minor amendments have also been made to the wording of subsection 45(2) so that it is in the same form as subsection 44(2).

Item 10 inserts a new paragraph 47(1)(c).

Section 47 provides for when an approved child care service is eligible for child care benefit by fee reduction for care provided to a child at risk. New paragraph 47(1)(c) will ensure that, in addition to the current criteria, an approved child care service will be eligible for child care benefit by fee reduction for care provided to a child at risk only if the child meets the immunisation requirements.

Items 11 to 18 amend the immunisation requirements in section 61B.

Current subsections 61B(1) and (2) provide the general rule that the Secretary must disregard clause 38A of Schedule 1 in relation to an individual, an FTB child of the individual and a particular day or days in an income year if, among other things, the FTB child turned one, two or five in that income year. Clause 38A provides for the rate of family tax benefit Part A supplement. The effect of this current general rule is therefore that an individual is not eligible to receive a rate of family tax benefit Part A supplement for income years in which the FTB child turns one, two or five.

Items 11 to 14 amend this general rule so it applies in each income year (the **current income year**), not just income years in which the FTB child turned one, two or five, if the FTB child is aged one or over on an applicable day in the income year.

Subsection 61B(3) provides an exception to this general rule. That is, subsection 61B(3) provides for circumstances in which the Secretary must not disregard clause 38A, the effect of which is that an individual may be eligible for a rate of family tax benefit Part A supplement. Those circumstances are currently where:

- (a) the Secretary becomes aware of information suggesting the child meets the immunisation requirements at any time before the end of the first income year after the income year in which the FTB child turned one, two or five (as the case requires) or of such further period (if any) as the Secretary allows; and
- (b) at any time, the Secretary is satisfied the child met the immunisation requirements before the end of that first income year.

Schedule 1 – Amendments

Item 15 amends paragraph 61B(3)(a) to replace the reference to the income year in which the FTB child turned one, two or five (as the case requires) with reference to the current income year. The effect of this is that the Secretary must not disregard clause 38A if the Secretary becomes aware of information suggesting the child meets the immunisation requirements at any time before the end of the income year after the current income year.

Current paragraph 61B(3A)(a) provides that the Secretary must not allow a further period for the purpose of paragraph 61B(3)(a) unless certain circumstances are met, including that a further period in respect of the individual's claim for family tax benefit was allowed and that claim is for a past period falling within an income year in which the child turned one, two or five. Current paragraph 61B(3A)(b) provides that any further period allowed by the Secretary must end no later than the end of the second year after the income year in which the FTB child turned one, two or five (as the case requires).

Items 16 and 17 replace the references in paragraphs 61B(3A)(a) and (b) to the income year in which the FTB child turned one, two or five (as the case requires) with references to the current income year to ensure consistency with the other amendments to section 61B made by this Schedule.

Item 18 amends paragraph 61B(4)(a). Current paragraph 61B(4)(a) provides that subsections 61B(1), (2) and (3) do not apply if the FTB child or the relevant individual dies before the end of the first income year after the income year in which the FTB child turned one, two or five (as the case requires). Item 18 replaces the references in paragraph 61B(4)(a) to the income year in which the FTB child turned one, two or five (as the case requires) with references to the current income year to ensure consistency with the other amendments to section 61B made by this Schedule.

Item 19 provides for application and transitional provisions for the amendments made by this Schedule.

Subitem 19(1) provides that the amendments made by this Schedule apply:

- (a) in working out whether family tax benefit Part A supplement is to be added to an individual's Part A rate of family tax benefit, for a day on or after the commencement of this item; and
- (b) in working out whether an individual, or an approved child care service, is eligible for child care benefit provided to a child on a day on or after the commencement of this item.

Schedule 1 – Amendments

One of the effects of subitem 19(1) is that an individual may be paid family tax benefit Part A supplement for the period of 1 July to 31 December 2015 if an FTB child meets the immunisation requirements before the amendments made by this Schedule, but not for days on or after 1 January 2016, if, as a result of this Schedule, the FTB child no longer meets the immunisation requirements. For example, an individual may be paid the family tax benefit Part A supplement for a child who meets the immunisation requirements on the basis of a conscientious objection until 31 December 2015, but not for the days on or after 1 January 2016 because they would no longer meet the immunisation requirements.

Subitem 19(2) provides that certifications in relation to medical contraindication or natural immunity mentioned in subsection 6(5) or (6) of the Family Assistance Act (as in force immediately before the commencement of this item) that had effect immediately before that commencement are taken on and after that commencement to be a certification of a general practitioner for the purposes of paragraph 6(3)(a) or (b) of that Act (as amended by this Schedule). New paragraphs 6(3)(a) and (b) now provide for circumstances in which a person meets the immunisation requirements on the basis of a certification on the grounds of a medical contraindication or natural immunity. These certifications were previously made by a recognised immunisation provider or medical practitioner under subsections 6(5) and (6) but will now be made by a general practitioner. It is therefore necessary to 'save' the certifications made under subsections 6(5) and (6) before the commencement date and provide that they are taken to be certifications of a general practitioner.

Subitem 19(3) makes it clear that current sections 6 and 7 of the Family Assistance Act do not apply on or after the commencement of item 19, in relation to days before that commencement.

Current section 6 of the Family Assistance Act sets out when a child meets the immunisation requirements. Item 4 of this Schedule amends section 6. One of the effects of the amendments made by item 4 is that a child will no longer meet the immunisation requirements on the basis of a conscientious objection. One of the effects of subitem 19(3) is that a child will not be able to meet the immunisation requirements for days before 1 January 2016 on the basis of a conscientious objection declaration made on or after 1 January 2016. A child will meet the immunisation requirements for days before 1 January 2016 if a relevant conscientious declaration is made before that date.

Schedule 1 – Amendments

A further effect of subitem 19(3) is that it will not be possible for a child to be exempt from the immunisation requirements for days before 1 January 2016, on the basis of a relevant Church of Christ, Scientist, declaration made on or after 1 January 2016. It will also not be possible for the Secretary to take action on or after 1 January 2016 to exempt a child from the immunisation requirements for days before 1 January 2016, on the basis of exceptional circumstances. These exemptions are currently contained in determinations made under section 7 of the Family Assistance Act. The effect of the amendments made by items 4 and 5 of this Schedule is that those exemptions will no longer apply from 1 January 2016. A child will meet the immunisation requirements for days before 1 January 2016 if a relevant Church of Christ, Scientist, declaration is made before that day, or if the Secretary takes action before that day to exempt the child from those requirements on the basis of exceptional circumstances.

One instance in which subitem 19(3) would affect a child meeting the immunisation requirements is if a declaration is made in relation to a lump sum claim made after 1 January 2016 but pertaining to days before 1 January 2016. In this instance, a declaration could not be made for days before or after 1 January 2016.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

*Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011*

SOCIAL SERVICES LEGISLATION AMENDMENT (NO JAB, NO PAY) BILL 2015

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

This Bill amends the immunisation requirements for child care benefit, child care rebate and the family tax benefit Part A supplement.

From 1 January 2016, this measure makes these payments conditional on meeting the childhood immunisation requirements for children at all ages. Exemptions will only apply for valid medical reasons, or if the Secretary has determined in writing that a child meets the immunisation requirements.

Individuals with a conscientious objection will no longer meet the immunisation requirements under subsections 6(3) and 6(4) of the *A New Tax System (Family Assistance) Act 1999* (the Family Assistance Act). A child of a practising member of the Church of Christ, Scientist, (a religious exemption) will also no longer meet the immunisation requirements under subsections 6(7) and 7(1) of the Family Assistance Act.

The purpose of this Bill is to encourage parents to immunise their children. The changes will reinforce the importance of immunisation and protecting public health.

Human rights implications

This Bill engages the following human rights:

The right to physical and mental health

Extending the immunisation requirements engages article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 12 recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. In particular, State Parties shall take steps necessary for 'the reduction of ... infant mortality and for the healthy development of the child' and the 'prevention, treatment and control of epidemic, endemic, occupational and other diseases'. Similarly, article 24 of the Convention of the Rights of the Child (CRC) recognises the right of the child to the enjoyment of the highest attainable standard of health, and measures 'to diminish infant death and child mortality' and to 'combat disease'.

Statement of compatibility with human rights

By extending the immunisation requirements and encouraging families to have their children immunised, this Bill promotes the right to physical and mental health. Vaccination is recognised in health policy and medical research to be the most effective method of preventing infectious diseases and providing protection both to individuals who receive vaccinations and to the wider community. Encouraging vaccination aims to extend the benefit of vaccination within the Australian community.

The right to freedom of thought, conscience and religion

Article 18 of the International Covenant on Civil and Political Rights provides that everyone shall have the right to freedom of thought, conscience and religion. This right may be engaged by extending the immunisation requirements; as families will no longer be eligible to receive child care benefit, child care rebate or the family tax benefit Part A supplement where they have a conscientious or religious belief that prevents them from immunising their children.

However, article 18 also provides that these 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. The objection to vaccination can limit the rights of others to physical and mental health. As the most effective method of preventing infectious diseases, vaccination provides a necessary protection of public health.

Further, these families continue to have the right to uphold their conscientious or religious belief by electing not to receive child care benefit, child care rebate or the family tax benefit Part A supplement.

The right to social security

Article 9 of the ICESCR recognises the right of everyone to social security, and article 26 of the CRC recognises the right of every child to benefit from social security. This Bill engages these rights by removing eligibility to receive child care benefit, child care rebate and family tax benefit Part A supplement for vaccine objectors.

However, this limitation is necessary and proportionate to the legitimate aim of promoting the right to physical and mental health. Additionally, families affected by this measure are still eligible to receive fortnightly payments of family tax benefit to assist with the costs of raising children.

Conclusion

This Bill is compatible with human rights because it advances the protection of the right to physical health, and, to the extent that it may also limit human rights, those limitations are reasonable, necessary and proportionate.

**[Circulated by the authority of the Minister for Social Services,
the Hon Scott Morrison MP]**

~~Sensitive Legal~~



The Hon Scott Morrison MP
Minister for Social Services

MS15-001699

The Hon Tony Abbott MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

I seek your approval for some minor policy aspects of the Social Services Legislation Amendment (No Jab, No Pay) Bill 2015, which I intend to introduce in the week commencing 7 September 2015.

From 1 January 2016, this Bill would make Child Care Benefit, Child Care Rebate and the Family Tax Benefit Part A Supplement conditional on meeting the early childhood immunisation requirements for children at all ages.

Under current arrangements for the Family Tax Benefit Part A Supplement, immunisation requirements apply in the income year in which the child turns one, two and five years old. I propose extending this arrangement, with payment subject to the child fulfilling the immunisation requirements in all income years up to and including any income year in which the child is 19, with the exception of children who have not turned one in an income year.

A person would be entitled to the value of the Family Tax Benefit Part A Supplement applicable for the period up to the commencement of this measure on 1 January 2016 in respect of a child who meets the immunisation requirements for that period. After 1 January 2016, the value of the Family Tax Benefit Part A Supplement would be calculated based on the immunisation requirements under the proposed arrangements having been met.

In relation to Child Care Benefit and Child Care Rebate, strengthened immunisation requirements would apply from 1 January 2016 for a child up to and including the age of 19, a change from the current child care entitlements immunisation requirements applying to children aged under seven. Further, the requirements relating to immunisation in relation to eligibility for Child Care Benefit for a past period where care is provided by a registered carer will also be aligned with the requirements relating to immunisation where care is provided by a child care service.

I also seek your approval to remove the existing powers to make determinations that allow specific classes to meet the immunisation requirement, or to exempt specific classes, under subsections 6(7) and (8) and section 7 of the *A New Tax System (Family Assistance) Act 1999* (Family Assistance Act). I propose to:

- abolish the Social Services Secretary's discretionary power to grant exemptions due to exceptional circumstances;
- transfer into the Family Assistance Act similar exemptions, relating to 'temporary unavailability of vaccine' and 'children vaccinated overseas', in which a child meets the immunisation requirement, currently contained in the *Family Assistance (Meeting the Immunisation Requirements) (FaHCSIA) Determination 2012* and the *Child Care Benefit (Immunisation Requirements) (DEEWR) Determination 2013*;
- create a new medical-related category to ensure children participating in a vaccine study approved by a Human Research Ethics Committee registered with the National Health and Medical Research Council would meet the immunisation requirements. Existing provisions for medical contraindication and natural immunity would also be included in that category, and children already covered by those provisions before the commencement of the measure would continue to meet the immunisation requirements after commencement of the measure;
- provide that the Social Services Secretary may determine that a child meets the immunisation requirements, after having complied with any decision-making principles set out in a legislative instrument made by the Minister for Social Services; and
- remove the exemption from the immunisation requirements for the Church of Christ, Scientist, which has already been announced.

Currently, a recognised immunisation provider may certify that the immunisation of a child would be medically contraindicated or that a vaccine is temporarily unavailable. I propose that a general practitioner be responsible for certifications in relation to medical contraindication, and that the Commonwealth Chief Medical Officer be responsible for certifications about the temporary unavailability of vaccines. I also propose that a general practitioner, not a medical practitioner, be responsible for certifications about a child having a natural immunity.

I further propose that an approved child care service be eligible for Child Care Benefit by fee reduction for care provided to a child at risk only if the child meets the immunisation requirements.

Further to your letter of 10 April 2015, I wish to clarify that the conscientious objection exemption will be removed for the Family Tax Benefit Part A supplement in addition to child care payments.

This Bill is expected to produce savings of \$508.3 million over the forward estimates.

My contact officer is Ms Janet Vidler on [s22](#)

Yours sincerely

The Hon Scott Morrison MP
Minister for Social Services

/ /2015

**SOCIAL SERVICES LEGISLATION AMENDMENT
(NO JAB, NO PAY) BILL 2015**

SECOND READING SPEECH

This Bill will introduce the Government's *No Jab, No Pay* announcement from the 2015 Budget – an important initiative aimed at boosting childhood immunisation rates.

From 1 January 2016, the Bill will ensure children fully meet immunisation requirements before their families can access the Child Care Benefit, Child Care Rebate or the Family Tax Benefit Part A supplement.

Immunisation requirements will also be extended to include children of all ages. At present, a child's vaccination status is only checked at ages one, two and five for the Family Tax Benefit Part A supplement, and up to age seven for the child care payments.

Crucially, the Government is ending the conscientious objection exemption to children's vaccinations for access to these family assistance payments.

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.

Exceptions to the policy will apply only for valid medical reasons, such as when a general practitioner has certified that vaccinating the child would be medically contraindicated, or that vaccination is unnecessary because the child has natural immunity from having contracted the disease in question.

Families with children participating in an approved vaccine study will be taken to meet the immunisation requirements for the duration of the study – and similar rules will apply where a vaccine is temporarily unavailable.

The requirements will also be met if a recognised immunisation provider certifies that the child has an equivalent level of immunisation through an overseas vaccination programme.

Lastly, the Secretary will be able to determine that a child meets the immunisation requirements after considering any decision-making principles set out in a legislative instrument made by the Minister.

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

Australia now has childhood vaccination rates over 90 per cent, from one to five years of age.

Under the present arrangements, the vast majority of families receiving family payments – around 97 per cent – already meet the current immunisation requirement at the relevant age points.

However, more needs to be done to ensure we protect our children and our community from preventable diseases.

The new policy will tighten up the rules and reinforce the importance of vaccination in protecting public health, especially for children.

SOCIAL SERVICES LEGISLATION AMENDMENT (NO JAB, NO PAY) BILL 2015

PARTY BRIEF

This Bill will introduce a 2015 Budget measure relevant to families. From 1 January 2016, the Bill will ensure children fully meet immunisation requirements before their families can access child care benefit, child care rebate or the family tax benefit Part A supplement.

Exceptions to the policy will apply only for valid medical reasons, such as when a general practitioner has certified that vaccinating the child would be medically contraindicated, or that vaccination is unnecessary because the child has natural immunity from having contracted the disease in question.

Families with children participating in an approved vaccine study will be taken to meet the immunisation requirements for the duration of the study, and similar rules will apply where a vaccine is temporarily unavailable.

The requirements will also be met if a recognised immunisation provider certifies that the child has an equivalent level of immunisation through an overseas vaccination programme.

Lastly, the Secretary will be able to determine that a child meets the immunisation requirements after considering any decision-making principles set out in a legislative instrument made by the Minister.

Immunisation requirements will also be extended to include children of all ages. At present, a child's vaccination status is only checked at ages one, two and five for the family tax benefit Part A supplement, and up to age seven for the child care payments.

Financial impact statement

This Bill is expected to produce savings of \$508.3 million over the forward estimates.

Legislation Brief – Social Services Legislation Amendment (No Jab, No Pay) Bill 2015	
Portfolio	Social Services The Hon Scott Morrison MP
Background	This is a 2015 Budget measure being introduced for the first time. The content was developed in consultation with the Department of Health and the Department of Human Services.
Reasons and Outcomes (if relevant)	<ul style="list-style-type: none"> • Ensures children fully meet immunisation requirements before their families can access the Child Care Benefit, Child Care Rebate or the Family Tax Benefit Part A supplement. • Boosts childhood immunisation rates. • Supports the Government’s position that the choice made by some families not to vaccinate their children is not supported by public policy or medical research, nor should such action be supported by taxpayers in the form of family payments. • Tightens up the rules and reinforces the importance of immunisation and protecting public health, especially for children. • Extends the immunisation requirements to include children of all ages (at present, vaccination status is only checked at ages one, two and five for the Family Tax Benefit Part A supplement, and up to age seven for the child care payments). • Ends the conscientious objection exemption to children’s vaccinations for access to these family payments – exceptions will apply only for valid medical reasons: <ul style="list-style-type: none"> ○ when a general practitioner has certified that: <ul style="list-style-type: none"> ▪ vaccinating the child would be medically contraindicated, or ▪ vaccination is unnecessary because the child has natural immunity from having contracted the disease in question; ○ children participating in an approved vaccine study; ○ where a vaccine is temporarily unavailable; ○ when a recognised immunisation provider certifies that the child has an equivalent level of immunisation through an overseas vaccination programme; or ○ where the Secretary determines a child to meet the immunisation requirements after considering any decision-making principles set out in a legislative instrument made by the Minister.
Financial implications	Expected to produce savings of \$508.3 million over the forward estimates.
Timing	The measure is due to be implemented from 1 January 2016.
Reasons for timing	The Bill needs to be passed in the Spring sittings in order for the policy, and corresponding IT changes and communications with customers, to be implemented in time.
Minister’s Office	Office of the Minister for Social Services, the Hon Scott Morrison MP.

This brief should be provided to the PMO by close of business on the Tuesday of the week of introduction of the bill.

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 <p>Australian Government Department of Social Services</p>	<p>Submission For decision MS15-001726</p>
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To Minister for Social Services

Subject No Jab, No Pay: Implementation update and further policy amendments to immunisation requirements for Family Tax Benefit Part A and Child Care fee assistance.

Critical Date 11 September 2015

Recommendations: That you:

<ol style="list-style-type: none"> 1. Agree to the introduction of a provision that allows the Social Services Secretary to determine that a child meets the immunisation requirements, after having complied with any decision-making principles set out in a legislative instrument made by the Minister for Social Services; 2. Agree that an approved child care service will be eligible for child care benefit by fee reduction for care provided to a child at risk only if the child meets the immunisation requirements; 3. Agree that the Department commence pre-emptive communications about the No Jab, No Pay measure prior to the passage of enabling legislation; and 4. Note the information on the risks and sensitivities associated with the implementation of No Jab, No Pay, including as they relate to the proposed Secretarial exemption power. <p>Minister's signature</p>	<p>Agreed / Not Agreed</p> <p>Agreed / Not Agreed</p> <p>Agreed / Not Agreed</p> <p>Noted / Please Discuss</p> <p>Date...../...../2015</p>
<p>Minister's Comments</p>	
<p> </p>	

Purpose:

1. Firstly, to seek your agreement to further minor policy aspects of the No Jab, No Pay (NJNP) measure which introduces changes to the immunisation requirements for the Family Tax Benefit (FTB) Part A end of year supplement and child care fee assistance payments (Child Care Benefit and Child

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Care Rebate). s47E
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2. The Social Services Legislation Amendment (No Job, No Pay) Bill 2015 to affect these and other changes already agreed, has been drafted and is scheduled to be introduced next week. That Bill will shortly follow this submission, accompanied by a letter to the Prime Minister seeking his policy authority for the changes, including those contained in this submission, for your signature.
3. Secondly, to inform you of identified risks and sensitivities around the implementation of NJNP measure generally, including those that relate specifically to the introduction of an exemption provision.
4. Thirdly, to seek your agreement to commence pre-emptive communications to families about the proposed changes, should they be implemented as planned from 1 January 2016.

Key Issues:

5. Your office has requested further policy changes to the immunisation requirements that apply to the FTB Part A end of year supplement and child care fee assistance payments, to insert a general exemption making power into legislation in the form of a Secretary's determination. Two circumstances where exemptions may be appropriate to grant affect grandparent and non-parent carers and children at risk are described below.

Possible exemptions for grandparents and non-parent carers

6. Under the current legislation, Family Tax Benefit (FTB) children of grandparent or other non-parent primary carers must meet the immunisation requirements to be eligible for child care payments and the FTB Part A end of year supplement.
7. Where the non-parent carer is not the legal guardian of the child, parental consent to vaccination is required. Where consent is not given, the non-parent carer cannot vaccinate the child to claim these payments.
8. A proportion of non-parent carers may currently meet the immunisation requirements if a person with legal responsibility for the child has declared themselves to be a conscientious or vaccine objector.
9. As vaccine objection will no longer be a valid exemption category when the proposed NJNP changes are introduced from 1 January 2016, a small group of grandparents and other non-parent carers will no longer be eligible for child care payments and the FTB Part A supplement where parental consent to immunise the child is not given.
10. To obviate the potential for significant disadvantage for non-parent carers or children who are unable to meet the immunisation requirements, the Department seeks your agreement to include a legislative amendment that provides that the Secretary of the Department of Social Services may determine that a child meets the immunisation requirements, after having complied with the decision-making principles set out in a legislative instrument made by the Minister for Social Services.
11. The Department will monitor the implementation of this new provision to ensure unintended consequences, such as attempted exploitation by vaccination objectors and possible oversubscription of the Grandparent Child Care Benefit payment, are identified and addressed as required.

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New immunisation requirement for a child at risk when there is no eligible individual

12. The second policy change relates to children at risk of abuse or neglect in respect of whom there is no individual (usually a parent) who is conditionally eligible for child care payments.
13. There are a number of criteria that an individual needs to satisfy before they are determined eligible for the Australian Government's child care payments.
14. Eligibility criteria include that the parent is an Australian citizen, a permanent resident living in Australia or be exempted from the Government's residency requirements. In addition, the child must meet the immunisation requirements.
15. However, in the case of a child at risk of serious abuse or neglect where the parent is not eligible for child care fee assistance, the family assistance law currently provides that the child care service itself can be eligible in respect of the child and claim child care fee assistance on their behalf.
16. When a service is eligible for fee assistance on behalf of a child at risk, the residency and immunisation requirements do not currently apply. This provision ensures that children who are at risk of abuse or neglect are not prevented from receiving child care and the associated financial assistance, despite the fact there is no eligible parent.
17. The Department seeks your approval to apply the immunisation requirements to children in respect of whom a child care service is eligible, as well as use the Secretary's discretionary power to determine that a child meets the immunisation requirements, so that children at risk can continue to receive fee assistance. The Department's data suggests that there are very few cases where services are eligible in these circumstances – since 1 January 2015, certificates on behalf of 143 children have been received. This represents 0.01% of the 1.2 million children in care.
18. If you agree to this change, this will be reflected in the new legislation currently being drafted.

NJNP implementation risks and sensitivities:

Timing

19. Any delays in the passage of the legislation enabling the NJNP changes may impact on the ability to implement the measure from 1 January 2016.
20. While the NJNP Bill has bi-partisan support, the Department understands that Senator Ian McDonald wrote to you on 19 August 2015 (see **Attachment A**) advising that he will be seeking a motion in the Senate for the NJNP Bill to be referred to the Community Affairs Legislation Committee for a public enquiry.
21. The Department of Human Services (DHS) has developed a contingency plan which will be a guide for managing delays in the passage of supporting legislation for NJNP. However, DHS has previously advised the Department that legislative delays may result in the measure requiring new costing and build timeframes. Therefore, the Department is cognisant that delays may put the implementation of the measure at risk from 1 January 2016 and is working with DHS accordingly.

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Communication

22. A communication plan has been prepared to guide public information on the NJNP measure and the catch-up measure, to help families take the appropriate steps at the right time, with the key theme that parents continue to have the right to decide to vaccinate their child or not. It will coordinate the communication efforts of DSS, DHS and the Department of Health.

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25. The Department has also been advised by the Department of Finance's Communication Advice Branch that the communications plan developed for NJNP will trigger the Australian Government campaign guidelines owing to the proposed media buy (which includes distribution of brochures to doctors' surgeries through InfoMed and use of Facebook advertising).

26. The Department is preparing a letter for you to send to the Special Minister of State to seek approval to communicate, which may involve an additional one to two weeks of approval time. It should not limit the Department's ability to communicate about the changes using business-as-usual communication tools (for example, media, websites, stakeholder networks) prior to the passage of legislation. If required, the communication strategy outline will be provided to you for your consideration under a separate submission in the coming weeks.

Revised Costings

27. Creating an additional exemption category may necessitate the re-opening of both the special appropriation and DHS costings. The creation of a new exemption category would result in a small number of additional families receiving the child care assistance and the FTB Part A end of year supplement than had been anticipated so the downward adjustment of the special appropriation saving would need to be accounted for in expenditure estimates.

28. Further, as this is a change to the policy and already agreed system specifications, the Department may need to prepare a request for costings from DHS. While the Department does not consider that there will be additional costs due to the relatively small number of individuals who would from time to time seek an exemption, DHS is yet to confirm if this is the case.

Change to exemptions already announced

29. Previously announced NJNP changes noted that the only exemptions retained are medical exemptions for which medical evidence is required before they apply. There has already been a significant amount of communication around the measure and adding a new exemption at this late stage for one particular group may cause confusion or adverse media attention.

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30. The exemption may also be used from time to time to benefit individuals living in a domestic violence relationship where the partner or ex-partner refuses to vaccinate their child, newly arrived refugees, and those in special circumstances unforeseen.

Regulatory impact

31. In the case of grandparents and other non-parent carers the provision of evidence that parental consent to vaccination cannot be obtained will increase regulatory burden on individuals and state and territory authorities, which was not originally factored in the Regulatory Impact Statement. Case-by-case administrative consideration of exemption eligibility also creates additional complexity in both legislation and policy guides.

32. As an exemption process was not included in the initial Regulation Impact Statement the Department will seek advice from the Office of Best Practice Regulation on what, if any, impacts there are from the changes.

Financial Implications: N/A

Media Release: N/A. However, you may wish to consider a media release when the NJNP Bill has passed both Houses to address some of the misinformation that has been reported in the media recently about the measure.

Name: Dave Agnew
Position: Branch Manager
Branch: Child Care Payments Policy
Phone/Mobile: s22

Name: Suzanne Northcott
Position: A/g Group Manager
Group: Early Childhood Care Support
Phone/Mobile: s22

Name: Ty Emerson
Position: A/g Group Manager
Group: Payments Policy
Phone/Mobile: s22

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**Attachments: A – Letter from Senator McDonald
Additional Information**

MO Action Date	11 September 2015		
Critical Date	11 October 2015		
History	N/A		
Consultation	Budget Development Branch	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Communication & Media Branch	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Project, Risk and Deregulation Branch	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Programme Office	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Delivery Strategy and Operations Group	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/>
	No		
	Other Department [insert name]	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Group Manager [insert name]	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Deputy Secretary [insert name]	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

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MC15- 010663



Australian Government
Department of Social Services

PDMS CORRESPONDENCE ACTION SHEET 2015

ACTION: Action NFA Referral

SUBJECT: Proposed bill to force immunisation of children

GROUP RESPONSIBLE Payments Policy

INITIATOR: Senator the Hon Ian Macdonald
(Correspondent)

ORGANISATION

ON BEHALF OF:

<u>5 Days</u>	<u>10 Days</u>	<u>15 Days</u>	<u>20 Days</u>	<u>FOR INFO / NFA</u>	<u>OTHER</u>
<i>URGENT / VIP / MINISTER</i>	<i>MP / SENATOR / LATE REFERRAL</i>	<i>ORGANISATION / PM&C REFERRAL</i>	<i>GENERAL PUBLIC</i>		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PRINCIPAL:	MINISTER	ADVISER	DEPT	REFERRAL	PART-REFERRAL	NFA
Minister for Social Services - Scott Morrison	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Assistant Minister for Social Services - Mitch Fifield	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parliamentary Secretary to the Minister for Social Services - Concetta Fierravanti-Wells	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of Correspondence: 19/8/2015 **Received in MO/PSO:** 20/8/2015 **Received in MPES:** 24/8/2015

Coding Officer: Jean	Comments:
Date: 25/8/2015	Processing Instructions:
Related PDR	PDMS: None at time of coding



Senator the Hon. Ian Macdonald - Liberal - Queensland - LNP

131 Denham St (PO Box 2185) Townsville QLD 4810 Ph: 07 4771 3066 Fax: 07 4771 3411
Suite S1 38 Parliament House Canberra ACT 2600 Ph: 02 6277 3722 Fax: 02 6277 5914
www.senatormacdonald.org senator.ian.macdonald@aph.gov.au www.facebook.com/SenatorMacdonald

IDM:ET

Senator Hon Mitch Fifield
Manager of Government Business in the Senate

Senator David Bushby
Chief Government Whip in the Senate

Dear Mitch and David

I attach for your information a copy of a letter that I have written today to the Hon Scott Morrison MP, Minister for Social Services in relation to a proposed Bill to force immunisation of children.

The purpose of this letter is to ensure that if any such Bill is passed through the House of Representatives, it is sent to a Senate committee for an open and public enquiry.

As I indicate to the Minister in my attached letter I am not advocating or otherwise on the substance of the Bill. I do however think it is very important that the group who are very actively opposing any such legalisation for very serious reasons should have the opportunity to express their views in an open and public enquiry.

I would hope you could facilitate this, if the matter comes before the Selection of Bills Committee.

Yours sincerely

s22

Ian Macdonald
19th August 2015





Senator the Hon. Ian Macdonald - Liberal - Queensland - LNP

131 Denham St (PO Box 2185) Townsville QLD 4810 Ph: 07 4771 3066 Fax: 07 4771 3411
Suite S1 38 Parliament House Canberra ACT 2600 Ph: 02 6277 3722 Fax: 02 6277 5914
www.senatormacdonald.org senator.ian.macdonald@aph.gov.au www.facebook.com/SenatorMacdonald

IDM:ET

Hon Scott Morrison MP
Minister for Social Services
Parliament House
CANBERRA ACT 2600

COPY

Dear Minister ,

I have been approached a couple of times by a group of people opposed to proposed legislation curtailing welfare benefits to those who don't ensure that their infant children are immunised against diseases.

The group consists of a number of professionals and other concerned citizens who totally oppose forced immunisation.

They do make a case, although as I indicated to them, I was not in a position to adjudicate on claims and counter claims by those who oppose or promote compulsory immunisation.

I think the group are genuine in their concerns.

I indicated to the group that I would approach you to ensure that if such a Bill is brought forward to the Parliament it is at least referred to a Senate Committee for an open and public hearing on the rights and wrongs of forced immunisation.

I repeat I do not have a formed view myself on the issue but I do believe that in matters like this that it is very important that all people are given the opportunity to express their views and are able to raise of the views they promote.

I think this is essential in democracy particularly in a case where there seems to be some compulsion involved supported by penalties, that is reduction in Government welfare payments.

I would ask that you to ensure that an open and public enquiry is conducted into any such Bill that is brought forward.

I understand my colleague Senator Arthur Sinodinos has met with this same group and has authorised me to say that he like me whilst not necessarily supporting or otherwise the proposition he agrees with me absolutely that the matter should go to a public enquiry.

Yours sincerely

s22

Ian Macdonald
19th August 2015

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 <p>Australian Government Department of Social Services</p>	<p>Submission MS15-001867</p>
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To **Minister for Social Services** for information

Subject: No Job, No Pay: Implementation status update and further policy amendments to immunisation requirements for Family Tax Benefit Part A end of year supplement.

Recommendations: That you

<p>1. Note the information provided in this submission.</p> <p>Minister's signature</p>	<p>Noted / Please Discuss</p> <p>Date...../...../2015</p>
<p>Minister's Comments</p>	

Purpose:

To provide you with a status update on the implementation of the No Job, No Pay measure, and to inform you of the current risks and sensitivities associated with its introduction, including those that relate specifically to modified highly targeted exemption provisions.

Key Points:

Implementation update

On 12 April 2015, the former Prime Minister, the Hon Tony Abbott MP, and the former Minister for Social Services, the Hon Scott Morrison MP, jointly announced that the Government is reinforcing the importance of immunisation and protecting public health by strengthening immunisation requirements for children.

Currently, parents can be exempt from having their children meet the immunisation requirements if they declare they have a conscientious objection to vaccination. The changes mean that from 1 January 2016 objection to vaccination will no longer be a valid exemption category, therefore parents who do not immunise their children will cease to be eligible for Child Care Benefit, Child Care Rebate and the Family Tax Benefit Part A end-of-year supplement. In addition, the immunisation requirements will be extended to children and adolescents aged under 20 years.

The implementation of the measure is progressing with the Social Services Legislation (No Job, No Pay) Bill 2015 (the Bill) introduced into Parliament on 16 September 2015. This Bill will make changes to the immunisation requirements for both the Family Tax Benefit Part A end-of-year supplement and child care assistance payments. Subject to the passage of legislation, the Department of Human Services (DHS) will conduct a customer mail-out to inform customers of the changes during the period 30 November 2015 and 11 December 2015. Some aspects of the DHS system build to support the measure will be implemented in the December 2015 and March 2016 major releases, with the bulk of the system changes being implemented in the June 2016 major release.

To support the successful implementation of this measure, the Department of Health introduced legislation, which was passed by both Houses and received Royal Assent on 12 November 2015. This will expand the Australian Childhood Immunisation Register to enable recording of vaccinations administered for children aged under 20 years.

The Department of Health is providing further support to families with older children aged 10 and over receiving family assistance payments immediately before 1 January 2016 to access free early childhood catch-up vaccines. The Department of Health will inform health professionals of the changes to coincide with DSS' communications and, using existing mechanisms, prepare contracts for vaccine suppliers to ensure vaccines are available in States and Territories. A tender process is underway to supply vaccines for the 10-19 year old catch-up programme. Responses are currently being assessed for the tender which closed on 12 October 2015.

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Legislation – sensitivities and implementation risks

While the Bill was introduced into Parliament on 16 September 2015, it was referred to the Senate Community Affairs Legislation Committee for enquiry to report by 9 November 2015. The Department lodged a submission to the Committee (at **Attachment A**) on 16 October 2015 and appeared before the Committee on 2 November 2015. The Senate approved an extension to the Committee, and it reported on 11 November. The Department has reviewed the Committee's recommendations and most of them relate to evaluation of the measure (12 months and three years), education, monitoring the changes in behaviours of vaccine objectors and a vaccine compensation scheme.

The debate in the Senate on the Bill resumed on Thursday, 12 November. The Department anticipates that the debate on the Bill will resume during the week commencing 23 November. The Australian Greens have made a number of suggested amendments to the Second Reading Speech and the Bill. The amendments to the Second Reading Speech relate to emphasising the importance of GPs using their clinical assessment when considering a medical exemption; and ensuring consistent communication across Government websites. The proposed amendment to the Bill will see the implementation date moved to 1 July 2018. The Department is not supportive of this implementation date, as the proposal would mean a key aspect of the measure would become impotent as FTB supplements would be phased out by 1 July 2018 (legislation also before Parliament).

The Department will provide updated briefing materials to your Office. The speaking points will focus on how immunisation is an important public health measure for children, their families and the community, as well as the measure being important to improving the immunisation rates in the Australian community.

Even though the No Job, No Pay measure has bi-partisan support, we have established communication and implementation contingency plans with key stakeholders to help mitigate the potential for the late passage of legislation. DHS has advised that legislative delays may result in this measure requiring a new costing and modified system build timeframes. Delays may also affect the timing of the DHS customer mail-out.

The Department is cognisant that a delay to the passage of legislation may place the implementation of the No Job, No Pay measure at risk from 1 January 2016.

Highly targeted additional exemptions

In April 2015, announced changes to the immunisation requirements for the payment of Family Tax Benefit Part A end-of-year supplement and child care assistance payments strongly conveyed to constituents that only medical exemptions would be retained where medical evidence is provided.

Just prior to the introduction of legislation, the former Minister's Office requested further policy changes to the immunisation requirements to insert a general exemption making power into legislation in the form of a legislative instrument.

The additional exemptions would be highly targeted and used from time to time to benefit individuals where (for example) they are a grandparent or non-parent carer who has no legal authority to immunise a child, or family violence is reported.

As soon as the draft exemptions have been finalised and cleared by the Department's Legal Services Group, your approval will be sought prior to implementation.

There has already been a significant amount of communication around the measure and it has seen a large volume of campaign correspondence from anti-vaccination groups. The addition of these exemptions albeit highly targeted, may cause adverse media attention.

Administrative Arrangement orders – Change of Ministerial responsibility

The Machinery of Government changes made on 21 September 2015 moved the responsibility of child care assistance payments to Senator the Hon Simon Birmingham, Minister for Education and Training.

As such, it is important to note that the Department of Education and Training will need to prepare a separate vaccine schedule and an exemption determination to enable the successful implementation of the No Job, No Pay measure for child care assistance payment commencing 1 January 2016.

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Related legislation

The Social Services Legislation Amendment (Family Payment Structural Reform and Participation Measures) Bill 2015 was introduced into Parliament on 20 October 2015 but was referred for inquiry on 12 November 2015 to the Senate Community Affairs Committee for report by 30 November 2015. This Bill will provide for the phase-out the FTB Part A supplement by 2017-18. As No Jab No Pay is linked to the FTB Part A supplement, the Department is currently preparing options for No Jab No Pay, once the supplements are phased out.

Human Rights Committee

In its Twenty-ninth human rights scrutiny report of the 44th Parliament, the Human Rights Committee made some critical comments about the No Jab, No Pay legislation. The Committee was particularly critical of the removal of the conscientious objection exemptions, noting that the measure was removing the right of freedom of thought, conscience and religion. You wrote to the Chair of the Committee on 3 November 2015, arguing that the Bill was accompanied by a Human Rights Compatibility Statement. Further, the Bill does not remove individual choice as parents can still choose not to vaccinate their children, just that they will lose eligibility to some Government financial assistance for that choice. It will also be noted that the Government uses financial levers such as this to influence recipients' behaviours and that former immunisation payments also made immunisation a condition of the payment (eg Maternity Immunisation Allowance).

Financial Implications: N/A

Regulatory Implications: The new targeted exemptions are anticipated to increase the regulatory burden on individuals and state and territory authorities. As the exemptions are administered case-by-case, this also creates additional complexity in both legislation and policy guidance across the separate payments.

The exemption process was not included in the initial Regulatory Impact Statement and the Department will seek advice from the Office of Best Practice Regulation on what, if any, impact there are from these changes.

Media Release: N/A – However, you may wish to consider a media release when The Social Services Legislation (No Jab, No Pay) Bill 2015 has passed both Houses to address some of the misinformation that has been reported in the media about the measure.

Name: Cath Halbert
Position: Group Manager, Payment Policy Group
Phone/Mobile: s22

Contact Officer: Ty Emerson
Position: Branch Manager
Branch: Family and Student Payments Policy
Phone/Mobile: s22

Attachments:

Attachment A: Submission to the Senate Community Affairs Legislation Committee

History Consultation	Budget Development Branch	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Communication & Media Branch	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Project, Risk and Deregulation Branch	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Programme Office	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Delivery Strategy and Operations Group	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Other Department [insert name]	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
	Group Manager [Cath Halbert]	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	Deputy Secretary [Serena Wilson]	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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Australian Government
Department of Social Services

Paul McBride
A/g Deputy Secretary

Senator Zed Seselja
Chairperson
Senate Community Affairs Legislation Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Senator Seselja

**SUBMISSION TO THE SENATE COMMUNITY AFFAIRS LEGISLATION
COMMITTEE**

Please find attached the Department of Social Services submission to the Senate Community Affairs Legislation Committee Inquiry into the *Social Services Legislation Amendment (No Jab No Pay) Bill 2015*.

Thank you for providing the Department with the opportunity to make a submission.

Yours sincerely

s22

Paul McBride

16 October 2015

Lead by example
value diversity | respect diversity | celebrate diversity

Department of Social Services

Submission to the Senate Community Affairs Legislation Committee Inquiry into the Social Services Legislation Amendment (No Jab No Pay) Bill 2015

The Australian Government considers that immunisation is an important health measure for children and their families as it is the safest and most effective way of providing protection against diseases.

On 12 April 2015, the former Prime Minister, the Hon Tony Abbott MP, and the former Minister for Social Services, the Hon Scott Morrison MP, jointly announced that the Government is reinforcing the importance of immunisation and protecting public health by strengthening immunisation requirements for children.

Currently, parents can be exempt from having their children meet the immunisation requirements if they declare they have a conscientious objection to vaccination. The changes mean that from 1 January 2016 objection to vaccination will no longer be a valid exemption category, therefore parents who do not immunise their children will cease to be eligible for Child Care Benefit, Child Care Rebate and the Family Tax Benefit Part A end-of-year supplement.

In addition, the immunisation requirements will be extended to children and adolescents up to and including the age of 19.

Children will be considered fully immunised as long as they have received the appropriate early childhood vaccinations for their age cohort. A child will meet the requirement if they are fully immunised, engaged in a catch up schedule or have a valid exemption for medical reasons (children with medical contraindications, natural immunity, temporary unavailability of a vaccine, overseas vaccinations verified by an Australian recognised immunisation provider or participating in approved vaccination studies). The Secretary will also have legislated powers to exempt a child from immunisation requirements. This power will be guided by a set of principles outlining a narrow range of circumstances where granting an exemption would be appropriate.

Admission of children at a child care service will continue to be at the discretion of the service, and in accordance with the state or territory legislation regarding immunisation and access to child care.

As this is a public health issue, the Government has determined that whilst parents have the right to decide to not vaccinate their children, if they are doing so as a vaccination objector, their decision will mean they are no longer eligible for Child Care Benefit, Child Care Rebate and the Family Tax Benefit Part A end-of-year supplement. Time-limited assistance will be provided to eligible families who wish to fully immunise their children and meet the new requirements.

Legislation for this measure was accompanied by a Statement of Compatibility with Human Rights, in accordance with the Government's normal process.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

*Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011*

SOCIAL SERVICES LEGISLATION AMENDMENT (NO JAB, NO PAY) BILL 2015

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

This Bill amends the immunisation requirements for child care benefit, child care rebate and the family tax benefit Part A supplement.

From 1 January 2016, this measure makes these payments conditional on meeting the childhood immunisation requirements for children at all ages. Exemptions will only apply for valid medical reasons, or if the Secretary has determined in writing that a child meets the immunisation requirements.

Individuals with a conscientious objection will no longer meet the immunisation requirements under subsections 6(3) and 6(4) of the *A New Tax System (Family Assistance) Act 1999* (the Family Assistance Act). A child of a practising member of the Church of Christ, Scientist, (a religious exemption) will also no longer meet the immunisation requirements under subsections 6(7) and 7(1) of the Family Assistance Act.

The purpose of this Bill is to encourage parents to immunise their children. The changes will further improve immunisation compliance rates (Attachment A) by reinforcing the importance of immunisation and protecting public health.

Human rights implications

This Bill engages the following human rights:

The right to physical and mental health

Extending the immunisation requirements engages article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 12 recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. In particular, State Parties shall take steps necessary for 'the reduction of ... infant mortality and for the healthy development of the child' and the 'prevention, treatment and control of epidemic, endemic, occupational and other diseases'. Similarly, article 24 of the Convention of the Rights of the Child (CRC) recognises the right of the child to the enjoyment of the highest attainable standard of health, and measures 'to diminish infant death and child mortality' and to 'combat disease'.

By extending the immunisation requirements and encouraging families to have their children immunised, this Bill promotes the right to physical and mental health. Vaccination is recognised in health policy and medical research to be the most effective method of preventing infectious diseases and providing protection both to individuals who receive vaccinations and to the wider community. Encouraging vaccination aims to extend the benefit of vaccination within the Australian community.

The right to freedom of thought, conscience and religion

Article 18 of the International Covenant on Civil and Political Rights provides that everyone shall have the right to freedom of thought, conscience and religion. This right may be engaged by extending the immunisation requirements, as families will no longer be eligible to receive child care benefit, child care rebate or the family tax benefit Part A supplement where they have a conscientious or religious belief that prevents them from immunising their children.

However, article 18 also provides that these 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. The objection to vaccination can limit the rights of others to physical and mental health. As the most effective method of preventing infectious diseases, vaccination provides a necessary protection of public health.

Further, these families continue to have the right to uphold their conscientious or religious belief by electing not to receive child care benefit, child care rebate or the family tax benefit Part A supplement.

The right to social security

Article 9 of the ICESCR recognises the right of everyone to social security, and article 26 of the CRC recognises the right of every child to benefit from social security. This Bill engages these rights by removing eligibility to receive child care benefit, child care rebate and family tax benefit Part A supplement for vaccine objectors.

However, this limitation is necessary and proportionate to the legitimate aim of promoting the right to physical and mental health. Additionally, families affected by this measure are still eligible to receive fortnightly payments of family tax benefit to assist with the costs of raising children.

Conclusion

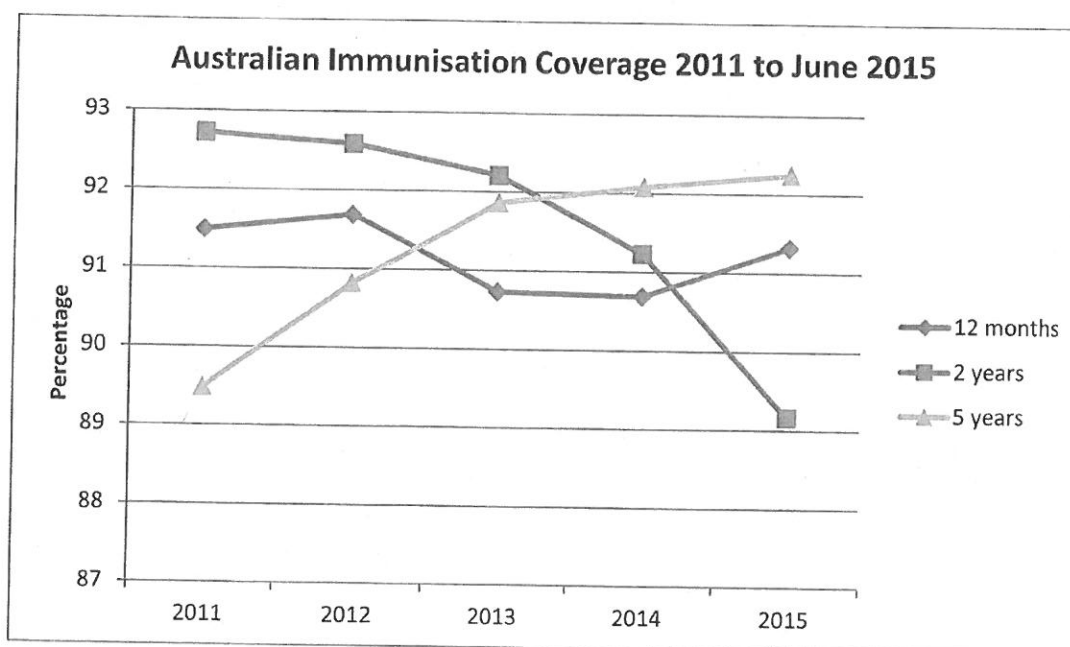
This Bill is compatible with human rights because it advances the protection of the right to physical health, and, to the extent that it may also limit human rights, those limitations are reasonable, necessary and proportionate.

Attachment A –

Australian Immunisation Coverage Rates

Percentage of Australian children fully immunised¹


Age	2011 (%)	2012 (%)	2013 (%)	2014 (%)	2015 ² (%)
12 months	91.49	91.69	90.73	90.69	91.32
2 years	92.72	92.59	92.21	91.23	89.16
5 years	89.48	90.82	91.86	92.08	92.25



Note: Up to 95% coverage is required to stop the spread of some diseases, such as measles.

¹ <http://www.immunise.health.gov.au/internet/immunise/publishing.nsf/Content/acir-ann-cov-hist-data.htm>

² <http://www.immunise.health.gov.au/internet/immunise/publishing.nsf/Content/acir-curr-data.htm>

 <p>Australian Government Department of Social Services</p>	Submission For decision MS15-000779
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To Minister for Social Services

Subject Religious exemption for immunisation requirements (Church of Christ, Scientist)

Critical Date 10/05/15 (Concerns a 2015-16 Budget measure)

Recommendations: That you

1. Agree to revise the exemption categories for the immunisation requirements for child care and family assistance payments.	Agreed / Not Agreed
2. Sign the letter to the Prime Minister at Attachment A informing him of this decision.	Signed / Not Signed
3. Note the information provided in this submission.	Noted / Please Discuss
Minister's signature	Date...../...../2015

Minister's Comments

Rejected <input type="checkbox"/> Yes <input type="checkbox"/> No	Timely Yes/No	Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:
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Purpose:

1. To seek your agreement for amendments to the exemption categories for the immunisation requirements for CCB, CCR and FTB Part A end of year supplement.
2. To provide you with information regarding the exemption given in regard to immunisation requirements under the Minister's Determination for members of Church of Christ, Scientist (CoCS).

Key Issues:

3. On 10 April 2015 the Prime Minister wrote a letter which gave authority for the proposal *Extending the immunisation requirements for payment of child care assistance and Family Tax Benefit Part A end of year supplement*. This included authority to consider and address any micro policy and implementation issues.
4. Following the announcement of the measure on 12 April 2015, the Department and the Minister's Office have received several enquiries regarding religious exemptions.
5. The legislation around immunisation exemptions does not refer to religion or religious exemptions. Instead, the Church of Christ, Scientist is specifically referenced as an exemption category.
6. The Department understands that the exemption for members of the CoCS was introduced as part of the *Child Care Legislation Amendment Bill 1998*. The exemption is currently legislated under the *Child Care Benefit (Immunisation Requirements) (DEEWR) Determination 2013* and *Family Assistance (Exemption from Immunisation Requirements) (FaHCSIA) Determination 2012* and for CCB/CCR and FTB Part A end of year supplement respectively.
7. The CoCS operates 30 places of worship around Australia. According to the 2011 Census, the CoCS's membership comprises less than 0.1% of Australians who identified themselves as affiliating with one of the various denominations of Christianity. Around 1,360 people identified themselves as affiliated with the Church of Christ, Scientist (a decline of approximately 110 since the 2006 Census). This figure includes around 140 children (aged 0-19).
8. **s47G**
9. **s47G** the Department considers that the choice faced by these parents is different to that faced by other families who choose not to immunise their children as a result of their personal beliefs. Therefore it is not justified that they continue to be granted an exemption when other vaccination objectors are not.
10. Based on this, the Department recommends removing the exemption provided to the CoCS in the broader context of reviewing all of the exemptions currently provided in consultation with the Department of Health. This would also allow the Department to confirm and ensure that the list of medical exemptions aligns with current immunisation guidelines.
11. The Department considers that no longer accepting vaccination objection as a means of meeting the immunisation requirement does not remove parent's ability to exercise choice around immunisation.

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12. The Department also recommends removing the exemption granted to participants in a study conducted by the Murdoch Children's Research Institute in 2003 as it is no longer current.

Financial Implications:

13. Any financial implications are expected to be negligible.

Regulatory Implications:

14. Immunisation requirements are a mutual obligation activity and are therefore exempted from the calculation of regulatory impacts.

Media Release: N/A

Name: Sidesh Naikar 17/04/15
Position: a/g Branch Manager
Branch: Family and Student Payments Policy
Phone/Mobile: s22

Name: Cath Halbert 17/04/15
Position: Group Manager
Group: Payments Policy
Phone/Mobile: s22

Attachments:

Attachment A: Letter to the Prime Minister

MO Action Due Date	10/05/15
History	MS15-000675
Consultation	Budget Development Branch <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Communication & Media Branch <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Project, Risk and Deregulation Branch <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Programme Office <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Other Department – DHS, Health <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Group Manager – Cath Halbert <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Deputy Secretary – Serena Wilson <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No State Manager [not applicable] <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

15.

~~PROTECTED Sensitive Cabinet~~



The Hon Scott Morrison MP
Minister for Social Services

MS15-000779

The Hon Tony Abbott MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

I am writing to inform you that in the process of addressing the micro policy and implementation issues related to the measure *Extending the immunisation requirements for payment of child care assistance and Family Tax Benefit Part A end of year supplement* which was announced on 12 April 2015, I have decided to make the following amendments to the list of exemptions which apply to the immunisation requirements:

- i. Removing the exemption for the Church of Christ, Scientist
- ii. Removing the out-dated exemption for the 2003 Murdoch Children's Research Institute study.

Any potential exemptions, which may be raised in the future, would need to be considered on their merits.

I will write to you shortly to outline the details of these changes, which are being developed in consultation with the Department of Health and the Department of Human Services.

I have provided a copy of this letter to the Minister for Finance, Senator the Hon Mathias Cormann, the Minister for Health, the Hon Sussan Ley and the Minister for Human Services, Senator the Hon Marise Payne for their information.

Yours sincerely

The Hon Scott Morrison MP
Minister for Social Services
/ /2015

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