EXPLANATORY STATEMENT

Child Care Benefit (Vaccination Schedules) (DEEWR) Amendment Determination 2013 (No. 1)

Authority

The Child Care Benefit (Vaccination Schedules) (DEEWR) Amendment Determination 2013 (No. 1) (Amendment Determination) is made by the Minister for Early Childhood and Childcare under section 4 of the A New Tax System (Family Assistance) Act 1999 (Assistance Act).

Section 4 of the Assistance Act provides that the Minister must, for the purposes of the definition of ‘immunised’ in section 3 of the Assistance Act, determine by legislative instrument:

(a) one or more standard vaccination schedules for the immunisation of children; and
(b) one or more catch up vaccination schedules for the immunisation of children who have not been immunised in accordance with a standard vaccination schedule.

The current determination made under section 4 of the Assistance Act is the Child Care Benefit (Vaccination Schedules) (DEEWR) Determination 2013 (the Principal Determination).

The Amendment Determination is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

Subsection 33(3) of the Acts Interpretation Act 1901 provides that where an Act confers the power to make a legislative instrument the power is to be construed to include the power to vary such a legislative instrument.

Purpose of the Amendment Determination

The purpose of the Amendment Determination is to correct technical errors in the Principal Determination. The years to which Schedules 1, 2 and 3 to the Principal Determination apply are incorrect: the references in the Principal Determination to 2013 should be to 2012, and the references to 2014 should be to 2013. In addition, the requirement for immunisation for ‘Pneumococcal’ at 18 months in Schedules 2 and 3 to the Principal Determination and the option for immunisation against Hepatitis B at age 12 months in Schedule 3 are not in accordance with the Australian Government’s current immunisation policy. These amendments do not have any retrospective effect.
Consultation

The Department of Families, Housing, Community Services and Indigenous Affairs, the Department of Human Services and the Department of Health and Ageing were consulted in the preparation of the Amendment Determination.

Regulation Impact Statement

The Office of Best Practice Regulation was consulted in the preparation of the Amendment Determination and assessed that no Regulation Impact Statement was required in relation to the Amendment Determination as the amendments are to correct technical errors.

Explanation of provisions

Sections 1 to 3 of the Amendment Determination are formal provisions. Section 1 sets out the name of the Amendment Determination. Section 2 provides that the Amendment Determination commences on 1 July 2013. Section 3 provides that Schedule 1 amends the Principal Determination.

Schedule 1

The amendments to the Principal Determination are contained in Schedule 1 to the Amendment Determination. The amendments correct errors in the Principal Determination.

Item 1 of Schedule 1 to the Amendment Determination substitutes a new table for the table in subsection 6(1) of the Principal Determination. References to 2013 in column 1 of the table in the Principal Determination are amended to 2012, and references to 2014 are amended to 2013.

Item 2 of Schedule 1 to the Amendment Determination substitutes a new title for the title of Schedule 1 to the Principal Determination. The new title refers to 2012 instead of 2013.

Item 3 of Schedule 1 to the Amendment Determination substitutes a new title for the title of Schedule 2 to the Principal Determination. The new title refers to 2012 instead of 2013, and to 2013 instead of 2014.

Item 4 of Schedule 1 to the Amendment Determination omits ‘Pneumoccocal*’ from column 3, item 5 of the table in Schedule 2 to the Principal Determination.

Item 5 of Schedule 1 to the Amendment Determination omits the note from the foot of the table in Schedule 2 of the Principal Determination.
**Item 6** of Schedule 1 to the Amendment Determination substitutes a new title for the title of Schedule 3 to the Principal Determination. The new title refers to 2013 instead of 2014.

**Item 7** of Schedule 1 to the Amendment Determination omits ‘(or at 12 months)’ from column 3, item 3 of the table in Schedule 3 of the Principal Determination.

**Item 8** of Schedule 1 to the Amendment Determination omits ‘Hepatitis B (or at 6 months)’ from column 3, item 4 of the table in Schedule 3 to the Principal Determination.

**Item 9** of Schedule 1 to the Amendment Determination omits ‘Pneumococcal*’ from column 3, item 5 of the table in Schedule 3 to the Principal Determination.

**Item 10** of Schedule 1 to the Amendment Determination omits the note from the foot of the table in Schedule 3 to the Principal Determination.
Statement of Compatibility with Human Rights

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

Child Care Benefit (Vaccination Schedules) (DEEWR) Amendment Determination 2013 (No. 1)

The Child Care Benefit (Vaccination Schedules) (DEEWR) Amendment Determination 2013 (No. 1) (Amendment Determination) 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.

Background

The Amendment Determination is made by the Minister for Early Childhood and Childcare under section 4 of the A New Tax System (Family Assistance) Act 1999 (Assistance Act), which provides that the Minister must, for the purposes of the definition of ‘immunised’ in section 3 of the Assistance Act, determine by legislative instrument:

(a) one or more standard vaccination schedules for the immunisation of children; and
(b) one or more catch up vaccination schedules for the immunisation of children who have not been immunised in accordance with a standard vaccination schedule.

The current determination made under section 4 of the Assistance Act is the Child Care Benefit (Vaccination Schedules) (DEEWR) Determination 2013 (the Principal Determination). The Principal Determination commences on 1 July 2013.

Overview of the Legislative Instrument

The purpose of the Amendment Determination is to correct technical errors in the Principal Determination. The years to which Schedules 1, 2 and 3 to the Principal Determination apply are incorrect: the references in the Principal Determination to 2013 should be to 2012, and the references to 2014 should be to 2013. In addition, the requirement for immunisation for ‘Pneumococcal’ at 18 months in Schedules 2 and 3 to the Principal Determination and the option for immunisation against Hepatitis B at age 12 months in Schedule 3 are not in accordance with the Australian Government’s current immunisation policy. These amendments do not have any retrospective effect.

Human rights implications

As the Amendment Determination corrects technical errors in the Principal Determination it does not affect the human rights engaged by the Principal Determination as set out in the Explanatory Statement to the Principal Determination (F2013L01057ES on the Federal Register of Legislative Instruments).
Conclusion

The Amendment Determination is compatible with human rights as it does not affect the Principal Determination’s promotion of rights. To the extent that the Principal Determination may limit rights, these limitations are reasonable, necessary and proportionate to achieving a legitimate aim, and the Amendment Determination also does not affect the Principal Determination in this regard.

Minister for Early Childhood and Childcare, the Honourable Kate Ellis MP