

EXPLANATORY STATEMENT

Family Assistance (Vaccination Schedules) (FaHCSIA) Determination 2008

Summary

This Determination is made under section 4 of the *A New Tax System (Family Assistance) Act 1999* (the Act). The Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The purpose of this Determination, which is relevant only to maternity immunisation allowance (MIA), is to replace the vaccination schedules for the purposes of the definition of 'immunised' in subsection 3(1) of the Act, to cover older children, including those vaccinated outside Australia and to redefine the circumstances in which a child is considered to be overdue for a particular vaccination.

The catch up vaccination schedule continues to be the catch up vaccination schedule published by the National Health and Medical Research Council (NHMRC) in the Australian Immunisation Handbook (the Handbook) but limited to those childhood diseases and antigens for which vaccines funded under the National Immunisation Program (NIP) are available.

Background

The eligibility rules for MIA include a requirement that the relevant child meets the immunisation requirements.

The basic requirement in section 6 of the Act is that the child has been immunised. 'Immunised' is defined in subsection 3(1) of the Act as meaning immunised in accordance with a standard or catch up vaccination schedule determined under section 4. Under section 4, the Minister must, by disallowable instrument, determine one or more of each of those schedules.

This Determination applies only to MIA, and replaces the Family Assistance (Vaccination Schedules) Determination 2003 ('the 2003 Vaccination Schedules Determination') insofar as it relates to maternity immunisation allowance. The 2003 Vaccination Schedules Determination continues to apply in relation to child care benefit, which is administered by the Minister for Education and the Minister for Employment and Workplace Relations.

As the result of amendments to the Act in the *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further 2008 Budget and Other Measures) Act 2008* ('the Amending Act'), from 1 January 2009 MIA will generally be paid in 2 payments in respect of children up to the age of 5, with the second payment available once the child turns 4. Further amendments in the Amending Act will extend eligibility to MIA to children who are or have been adopted from overseas, then enter Australia

before the age of 16 years and are immunised appropriately, generally after arrival. The standard immunisation schedule will apply to all children, such that if an overseas adopted child over the age of 5 has not been immunised in accordance with the standard schedule, it will be necessary for them to be immunised in accordance with the catch-up schedule to establish eligibility for MIA.

In order to cover older children, the divided age ranges of the 2003 Vaccinations Schedule Determination are replaced by a single vaccination schedule applying to all children, regardless of age. A child who is under the age of 5, and able to claim MIA under the proposed new domestic provisions will not be affected by the change. For older children adopted from overseas, this change will help to ensure that children are up to date with current standards of immunisation.

In order to encourage the provision of 4 year old immunisations to children, the timeframe within which the immunisation is due is being reduced. The previous determination allowed a period of 1 year for scheduled 4 year old vaccinations to be given. However, this would mean eligibility for the second payment of MIA would be established even where a child had not received their 4 year old vaccinations before the age of 5. Instead, in order to support the policy intent of encouraging full vaccination of children, a child will be considered overdue for their 4 year old vaccination if they do not receive it within 1 month of turning 4. This approach will encourage parents to immunise their children as soon as possible after they turn 4 years of age, making it more likely that children will be vaccinated prior to them starting school.

The reduced timeframe before a child is considered overdue for their 4 year old vaccinations will not apply to children born prior to 1 January 2005. This is to avoid rendering overdue at 1 January 2009 all children who are aged more than 4 years and 1 month who have not yet received their 4 year old vaccinations, which would affect a large number of children, and create an administrative burden for immunisation providers. The shorter timeframe before a child will be considered to be overdue will only affect children who will turn 4 on or after 1 January 2009.

Explanation of the sections

Part 1 - Preliminary

Name of Determination

Section 1 sets out the name of the Determination.

Commencement

Section 2 provides that the Determination commences on 1 January 2009, to coincide with the commencement of the amendments to the Act by the Amending Act.

Definition

Section 3 contains definitions for terms that are used in the Determination.

Application

Subsection 4(1) provides that the Determination only applies to MIA. For completeness, **subsection 4(2)** provides that the Determination applies to all claims made after 31 December 2008.

Application of the Family Assistance (Vaccination Schedules) Determination 2003

Section 5 provides that the 2003 Vaccination Schedules Determination does not apply to MIA, effectively being replaced by this Determination.

Part 2 – Vaccination schedules

Subsection 6(1) provides that the standard vaccination schedule, which will apply to claims for MIA in respect of children from birth up to 17 years of age, is the schedule set out in Schedule 1. It also provides a series of rules that are to be read in conjunction with the standard vaccination schedule.

The standard vaccination schedule in Schedule 1 lists the diseases and antigens against which a child must be vaccinated at a particular age to meet the definition of “immunised” in the FA Act for the purposes of MIA. The Schedule generalises to all children the requirements previously imposed by the 2003 Vaccination Schedules Determination only upon children born on or after 1 January 2004.

As a general rule, a child will be overdue for a vaccination one month after the vaccination is due. This rule is set out in **subsection 6(2)**.

However, if the vaccination is due at 4 years, for children born prior to 1 January 2005, then the vaccination is overdue at 5 years. This is set out in **subsection 6(3)**. This timeframe is the same as that imposed by the 2003 Vaccinations Schedule Determination, leaving unchanged the timing of vaccination requirements for these children.

If a child is overdue for a vaccination, the child is not “immunised” in accordance with the standard vaccination schedule. However, if the child subsequently receives the relevant vaccine or the child can no longer be vaccinated against the specific disease/antigen, then the immunisation requirement would be satisfied. An example of the latter would be the Hib

antigen – the relevant vaccination is not required after age 5 because the vaccine is not registered for use in children over the age of 5 years.

According to **subsection 6(4)**, a vaccine used to vaccinate a child must be registered as a vaccine on the Australian Register of Therapeutic Goods that is maintained under section 9A of the *Therapeutic Goods Act 1989*. However, this rule is subject to subsection 6(5).

Subsection 6(5) provides for an exception to the general rule imposed by subsection 6(4) where the vaccine is used to vaccinate a child while the child is outside Australia.

Subsection 6(6) clarifies that a child may be vaccinated in accordance with either Path A or Path B for Hib.

Catch up vaccination schedules potentially apply where a child has missed the required vaccinations, and are likely to apply to most children who have been adopted or are in the process of being adopted from overseas.

Subsection 7(1) provides that the catch up vaccination schedule is the catch up vaccination schedule published by the NHMRC in the Handbook. However, only the vaccinations against diseases or antigens listed in Schedule 1 are relevant for the purposes of the catch up schedule. In common with the standard Schedule, only those vaccines registered as a vaccine on the Australian Register of Therapeutic Goods may be used to immunise a child pursuant to a catch-up schedule, where that vaccination does not occur outside Australia.

The overdue rules are set out in **subsections 7(2) and (3)**. As a general rule, a child would be overdue a vaccination under the catch up vaccination schedule one month after the vaccination is due. However, where the vaccination is due on or after the child turns 4, and the child was born prior to 1 January 2005, the vaccination would be overdue either when the child turns 5 or one month after the vaccination is due, whichever is the later.

To illustrate, the final dose in a catch up schedule for a child born prior to 1 January 2005 might not be due at 4 years because the child might already be, say, 4 years and 2 months when they received the previous dose. Therefore, if the recommended interval between doses is 6 months, the next dose would be due at 4 years and 8 months. Under the “overdue” rule for these children, this would mean that the dose would be overdue at 5 years rather than 4 years and 9 months.

If the child subsequently receives the relevant vaccine or the child can no longer be vaccinated against the specific disease/antigen, then the immunisation requirement would be satisfied.

Consultation

Consultation on this Determination was undertaken with the Department of Health and Ageing, the Department of Education, Employment and Workplace Relations and the Department of Human Services (Medicare Australia).

Regulatory Impact Statement

This Determination does not require a Regulatory Impact Statement and/or a Business Cost Calculator Figure. The Determination is not regulatory in nature, will have no or minimal compliance costs, and will have no or minimal impact on business activity or competition.