

Public Health and Wellbeing Regulations Sunset Review regulatory impact statement

Chapter 8: Immunisation and exclusions – schools and
childcare

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The following chapter is an extract of the regulatory impact statement for the proposed Public Health and Wellbeing Regulations (2019).

Information on infringements, consultation, implementation, evaluation and the exposure draft regulations are contained in the full regulatory impact statement available on the [Engage Victoria website](https://engage.vic.gov.au) <<https://engage.vic.gov.au>>.

This extract was prepared to assist stakeholders who access the report by accessing a specific category on the Engage website.

Introduction (and invitation to comment)

Overview

The Public Health and Wellbeing Regulations 2009 (the current regulations) were made under the *Public Health and Wellbeing Act 2008* (the Act) and are due to sunset on 15 December 2019. New regulations are needed to replace them.

The remaking process provides an opportunity to revisit whether regulations are still needed and, if so, whether there are ways to improve them.

Public health regulations provide a framework for businesses, councils and individuals to protect the health and wellbeing of Victorians. Understanding how these regulations, and any proposed changes, will impact on Victorian business and the Victorian community is critical to the effective operation of the regulatory framework.

The current regulations include several regulatory areas, and the subject matter varies widely. In some ways these regulatory areas are distinct in their nature; however, their overall objective gives effect to the Public Health and Wellbeing Act.

To the extent that the regulatory areas are different, the department consulted key stakeholders to ensure any issues were understood and the impact of proposed solutions would be acceptable. This preliminary consultation has informed the proposed regulations and a summary is provided in the 'Consultation' chapter.

Purpose and objective

Victorians enjoy one of the highest standards of health and wellbeing in the developed world. This could not be achieved without laws and regulations that protect and promote public health and wellbeing.

The Act

The current regulations were made under the Public Health and Wellbeing Act. The purpose of the Act is to provide a legislative framework that promotes and protects public health and wellbeing in Victoria.

The state has a significant role in promoting and protecting the public health and wellbeing of Victorians.

Public health and wellbeing includes the absence of disease, illness, injury, disability or premature death and the collective state of public health and wellbeing. Public health interventions are one of the ways in which the public health and wellbeing can be improved and inequalities reduced.

The regulations

As set out in the Public Health and Wellbeing Act, the aim of the regulations is to achieve the highest attainable standard of public health and to prevent disease and illness while minimising costs for regulated industries.

Public health regulations provide a framework for businesses, councils and individuals in the practical application of the Act.

The regulatory impact statement

The purpose of this regulatory impact statement is to provide information and analysis to review how these regulations, and any proposed changes, will affect Victorian business and the Victorian community and contribute to the effective operation of the regulatory framework for public health.

The current regulations are due to expire on 15 December 2019. New regulations are needed to replace them.

Preparation of the new regulations

Before new regulations are made, the *Subordinate Legislation Act 1994* requires completion of the following four steps shown in Figure 1.

Figure 1: The four steps of making new regulations



Preliminary consultation

The department undertook preliminary consultation with key stakeholders to inform development of the proposed regulations. The proposed regulations address a range of matters for giving effect to the Act and therefore different stakeholders were engaged on different matters.

A summary of the preliminary consultation that has occurred is provided in the ‘Consultation’ chapter of this regulatory impact statement.

Public consultation: regulatory impact statement, evaluation and implementation

This regulatory impact statement has been prepared to meet the requirements of the Subordinate Legislation Act, enabling public consultation on the proposed regulations. The regulatory impact statement presents the range of matters addressed in the proposed regulations in separate chapters. Each chapter includes the regulatory objective for the matters addressed in the chapter, an assessment of the costs and benefits of the proposed regulations and possible alternatives.

In most cases the regulatory impact statement considered and analysed three regulatory options: to remove all regulation, to remake the current regulations without change, or to strengthen the requirements set out in the current regulations. The extent of the analysis of the regulatory options varies but is consistent with the need for regulatory change. In most cases the recommended option for each regulatory area is to strengthen the current regulations.

Each of the regulatory areas included within the regulatory impact statement has a specific implementation plan that will support awareness and understanding of any changes, preparedness and compliance. Information about implementing the proposed regulations can be found in the ‘Implementation’ chapter.

The proposed regulations will operate for up to 10 years. Evaluation has a key role in ensuring the intended improvements of the proposed regulations (appropriately effective and proportionate) are borne out and align with government objectives on an ongoing basis. Each of the regulatory areas included within the regulatory impact statement has a specific evaluation plan. Information about the evaluation, including public consultation, can be found at the end of the regulatory impact statement.

The proposed regulations are included as an attachment to this document.

Consideration of submissions

Public comments and submissions will be considered before the new regulations are made.

Final decision

The decision to make or not to make the proposed regulations will be informed by the public comments and submissions received. Notice of the decision will be published as soon as practicable after the decision has been made.

Small business impact and competition assessment

Small businesses may disproportionately experience the impacts from regulatory requirements for a range of reasons, including relatively limited resources to interpret compliance requirements or to keep pace with regulatory changes, and the cumulative effect of different requirements.

Most of the proposed regulations propose simplified and streamlined regulatory definitions and requirements compared with the current regulations, particularly where stakeholder feedback has raised issues about ambiguity of the intention of regulations. Any regulatory proposal needs to be scrutinised carefully to assess whether it is having an adverse impact on the ability of firms or individuals to enter and participate in the market. In line with the *Victorian guide to regulation*, new legislation (both primary and subordinate) needs to demonstrate that it will not restrict competition, unless benefits of the restriction outweigh the costs and the objectives of the legislation can only be achieved by restricting competition.

In instances where restrictions on competition have been identified, the benefits of the restriction outweigh the costs and the objectives of the legislation can only be achieved by restricting competition. For example, the registration of a premises by local government for the purposes of infection control standards creates an additional cost for starting a health and beauty service business. However, this cost is offset by the reduced risk of disease in the community and the reduced risk of an infectious disease outbreak.

Structure of the regulatory impact statement and the proposed regulations

This regulatory impact statement and the proposed regulations have grouped the regulations according to either how the regulations are administered or the regulation's purpose in the Act. These are broadly grouped into:

- regulations administered by councils
- regulations administered by the department
- regulations related to managing and controlling infectious diseases, micro-organisms and medical conditions
- other regulations.

Regulations administered by councils

- Vector-borne infectious disease control
- Registered premises – infection control
- Aquatic facilities

Regulations administered by the Secretary to the Department of Health and Human Services

- Cooling tower systems

- Legionella risks in certain premises (water delivery systems)
- Pest control

Management and control of infectious diseases, micro-organisms and medical conditions

- Notifications of infectious diseases, micro-organisms and medical conditions
- Closed court orders for prescribed diseases
- Immunisation and exclusions – schools and childcare
- Escort agencies providing information to sex workers and clients

Other regulatory provisions

- Prescribed senior officers (Chief Health Officer delegations)
- Tissue donations
- Consultative councils.

What isn't included in this regulatory impact statement

The Public Health and Wellbeing Act

The Public Health and Wellbeing Act is the legislation under which these regulations are made. The matters that can be set out in the regulations are confined to what is required under the Act. The requirements under the Act are not the subject of this review, only the details set out in the regulations. During the process of the review and consultation it is likely that potential improvements to the Act may be identified, but that is not the focus of this regulatory impact statement.

Public Health and Wellbeing Regulations relating to prescribed accommodation

Regulations relating to prescribed accommodation will not be considered within this regulatory impact statement (rr. 13 to 27). Separate new regulations relating to prescribed accommodation will be made in 2020. In the interim, the operation of the prescribed accommodation regulations will be extended in their current form for 12 months to allow further time for review and consultation.

The extension of the prescribed accommodation regulations provides an opportunity to separate regulations relating to prescribed accommodation from the other regulations made under the *Public Health and Wellbeing Act 2008*. It is intended that the extended prescribed accommodation provisions will be contained in the renamed 'Public Health and Wellbeing (Prescribed Accommodation) Regulations 2009' and will operate separately from the proposed Public Health and Wellbeing Regulations 2019.

Public Health and Wellbeing Regulations relating to HIV testing

The Public Health and Wellbeing Act prescribes special requirements for HIV testing and these requirements are included in the 2009 regulations. The need to review and modernise these requirements is an issue that a range of sector stakeholders have been raising for some years. Overwhelmingly, the sector has supported a repeal of relevant sections of the Act relating to pre and post HIV testing. The Victorian Parliament recently passed the Public Health and Wellbeing Bill 2019 to repeal the HIV testing specific provisions (ss. 131 and 132) on the basis that they stigmatise people with HIV and are outdated. As a result, the prescribed regulations will not need to be made.

Invitation to comment

In accordance with the *Victorian guide to regulation*, the Victorian Government seeks to ensure that proposed regulations are well-targeted, effective and appropriate, and impose the lowest possible burden on Victorian businesses and the community.

The regulatory impact statement process involves assessing regulatory proposals and allows members of the community to comment on proposed regulations before they are finalised. Such public input provides valuable information and perspectives and improves the overall quality of regulations.

The Public Health and Wellbeing Regulations 2019 (the proposed regulations) will replace the Public Health and Wellbeing Regulations 2009 (the current regulations). A copy of the proposed regulations is published with this regulatory impact statement.

Public comment is invited on the regulatory impact statement and the proposed regulations.

The consultation period is 60 days. Please note that all comments and submissions received will be treated as public documents.

Submission deadline

Comments and submissions should be received by the Department of Health and Human Services no later than 5.00 pm, Monday 30 September 2019.

How to make a submission

Preferred method

The [Engage Victoria website](https://engage.vic.gov.au) <https://engage.vic.gov.au> is the preferred method for receiving submissions. The website includes specific questions for each regulatory area and allows for additional feedback to be provided.

Email

If you are unable to use the preferred method above, submissions can be received by [emailing the department](mailto:phwa.enquiries@dhhs.vic.gov.au) <phwa.enquiries@dhhs.vic.gov.au>.

Post

If you are unable to use the preferred method above, submissions can be received by post marked 'Submission to the Review of the Public Health and Wellbeing Regulations 2009' and addressed to:

Chief Health Officer
Regulation, Health Protection & Emergency Management
Department of Health and Human Services
GPO Box 4057
Melbourne VIC 3001

Where can I obtain copies of this regulatory impact statement and the proposed regulations?

Copies of this regulatory impact statement and the proposed regulations can be obtained from the [Engage Victoria website](https://engage.vic.gov.au) <https://engage.vic.gov.au>.

How can I be updated on the progress of the review?

The [Engage Victoria website](https://engage.vic.gov.au) <https://engage.vic.gov.au> enables you to register to receive updates on the progress of the review of the current regulations.

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This extract was prepared to assist stakeholders who access the report by accessing a specific category on the Engage website. This is not intended to limit the scope of submissions; the department welcomes submissions from all interested parties.

Chapter 8: Immunisation and exclusions – schools and childcare

Problem analysis

Victoria regulates to prevent the spread of infectious disease by requiring some children to temporarily stop attending childcare, kindergarten or primary school if their attendance will put them or others at risk of contracting or spreading an infectious disease.

Childcare centres, kindergartens and primary schools provide a high-risk environment for transmitting communicable diseases. This is because of the higher rate of physical contact between children, their underdeveloped personal hygiene habits, and their greater susceptibility to many infections due to still-developing immune systems.

Regulating to prevent or minimise the spread of disease in these settings benefits the children themselves (through avoiding the potentially significant consequences of infection) and the broader community (by preventing the spread of disease to the wider population).

Regulating periods of mandatory exclusion for both infected children and those vulnerable to infection, provides a risk-based framework that allows schools and childcare centres (hereafter referred to as children's service centres or CSCs) to protect attending children from contracting or spreading some infectious diseases.

Research confirms that children achieve the most academic benefit if they maximise attendance in school. For this reason, short periods of targeted exclusion to prevent the spread of illness can prevent longer or more widespread absences from school as a result of illness, minimising the potential negative impact on a child's education as well as their health.

Objectives of the regulations

The objectives of the regulations are to:

- create behaviours and environments that aim to prevent the spread of infectious diseases among children in the high-risk settings of childcare centres, kindergartens (hereafter referred to as children's service centres) and primary schools
- ensure the necessary information is available to inform an appropriate public health intervention in these settings.

These regulations contribute to achieving the highest attainable standard of public health and preventing disease and illness.

Requirement of the regulations

These regulations relate to s. 3 and 238(1)(a) of the *Public Health and Wellbeing Act 2008* – Management and control of infectious disease, micro-organism and medical conditions.

Temporary exclusion of children who could infect others

Schedule 7 of the Public Health and Wellbeing Regulations 2009 lists 32 conditions with prescribed periods of exclusion for people infected with the illness and for 'contacts'. (A contact can be defined as

any person potentially exposed to an infectious disease. The definition/criteria for listing someone as a 'contact' will vary depending on the infectious disease.)

Those in charge of a primary school or children's service centre must not allow a child/children to attend the school/service in accordance with Schedule 7.

Schedule 7 includes diseases or conditions that are either highly infectious or carry potentially severe consequences, or both. The period of exclusion is based on medical consensus regarding the amount of time needed for the risk of transmission to pass.

Exclusion of children who are at risk of infection

Under the Public Health and Wellbeing Regulations (r. 85(2)) the Secretary to the Department of Health and Human Services has the power to direct the person in charge of a primary school or children's service centre to ensure that children who are not vaccinated against a specified disease do not attend, until such time as the Secretary directs that attendance can resume.

Collection of immunisation status certificates

Under the Public Health and Wellbeing Regulations (r. 85(2)) primary schools and children's service centres must:

- collect and record the immunisation status of children at enrolment
- keep immunisation records up to date
- provide authorised officers from the department or local council access to the immunisation records if required.

The purpose of these requirements is to ensure that unimmunised children can be quickly identified and excluded, if necessary, during an outbreak of vaccine-preventable disease.

Options

- Option 1: Retain the current regulations without changes
- Option 2: Amend some aspects of the current regulations
- Option 3: Reduce the current regulations and use non-regulatory alternatives.

Option 1: Retain current regulations without changes

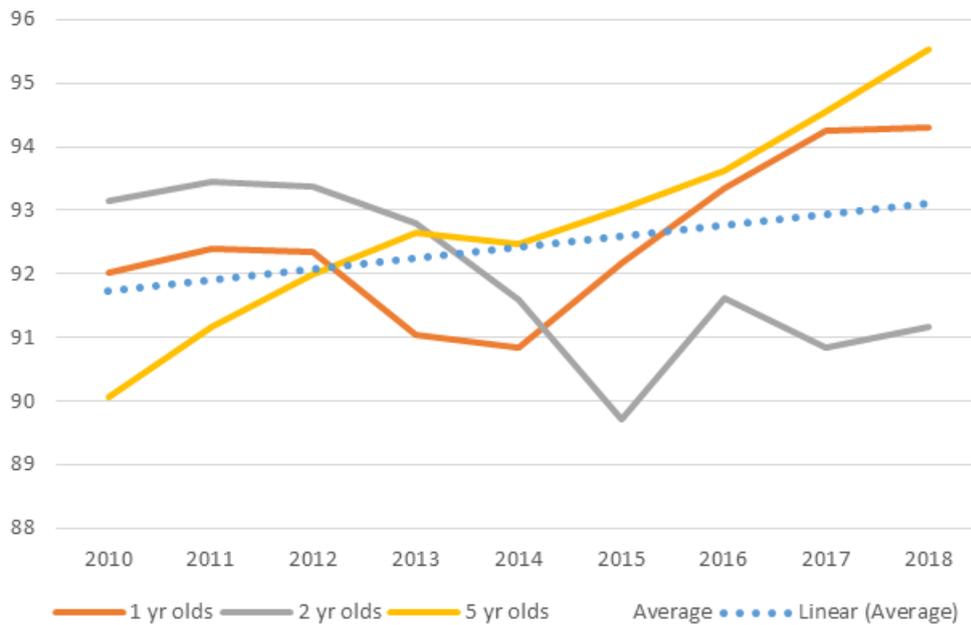
Efficacy of the current regulations

The Public Health and Wellbeing Act legislates immunisation and exclusion requirements, while the regulations provide the detailed framework under which the requirements are implemented. The current regulations have been effective in supporting the legislative goals of increased immunisation, particularly in children, and a reduction in the spread of vaccine-preventable disease.

Preventing the spread of infectious diseases in children in primary schools and children's service centres

Victoria has very high childhood immunisation rates that have generally increased over the time the current regulations have been in force, as indicated by the trend line in Figure 8.1.

Figure 8.1: Percentage of children fully vaccinated in Victoria, by age group, 2010–2018



A review of notifications (Table 8.1) of vaccine-preventable diseases in school-aged children over the past 10 years indicates a reduction in cases across 10 of the 12 diseases vaccinated against in Australia and no cases of diphtheria, tetanus and polio across the same time period.

Table 8.1: Notified cases of vaccine-preventable diseases in primary school-aged children (5–12 years),¹ Victoria, 2010–2018

Notifiable condition ²	2010	2011	2012	2013	2014	2015	2016	2017	2018
<i>Haemophilus influenzae</i> type b infection	1	0	1	0	2	0	0	0	0
Hepatitis B	11	9	12	14	15	11	10	12	5
Measles	1	2	1	4	11	1	2	4	2
Meningococcal infection	5	3	2	1	3	1	2	0	2
Mumps	0	1	2	2	0	2	0	4	1
Pertussis	1,279	1,619	579	532	903	866	475	355	343
Pneumococcal infection (IPD)	17	20	7	18	15	15	15	19	13
Rubella	1	0	0	0	0	0	0	0	0
Varicella zoster infection (chickenpox)	263	316	338	424	396	416	614	607	845
Diphtheria	0	0	0	0	0	0	0	0	0
Poliomyelitis	0	0	0	0	0	0	0	0	0
Tetanus	0	0	0	0	0	0	0	0	0

¹ An examination of data for children aged under five years is problematic because they do not all attend children's services centres and receive vaccinations from birth.

² Children in Australia have usually received vaccinations to prevent these conditions, provided free under the Australian National Immunisation Schedule, by the time they start primary school around five years of age.

Some diseases that are 'excludable' (they require children to be excluded from attending until the risk of infection has passed) are not vaccine-preventable (for example, conjunctivitis). Data is not collected on the occurrence of these diseases and is therefore not available for analysis.

The trend line in Figure 8.2 shows that, for the vaccine-preventable diseases with low case numbers (under 20), there is a consistent downward trend in notified cases in school-aged children.

For larger volume cases of pertussis (whooping cough) and varicella (chickenpox) the past 10 years have seen a significant reduction in pertussis but an upward trend for chickenpox notifications. The increase in chickenpox notifications is being experienced Australia-wide.³

Figure 8.2: Notified cases of vaccine-preventable diseases in primary school-aged children (5–12 years) excluding varicella and pertussis, Victoria, 2010– 2018

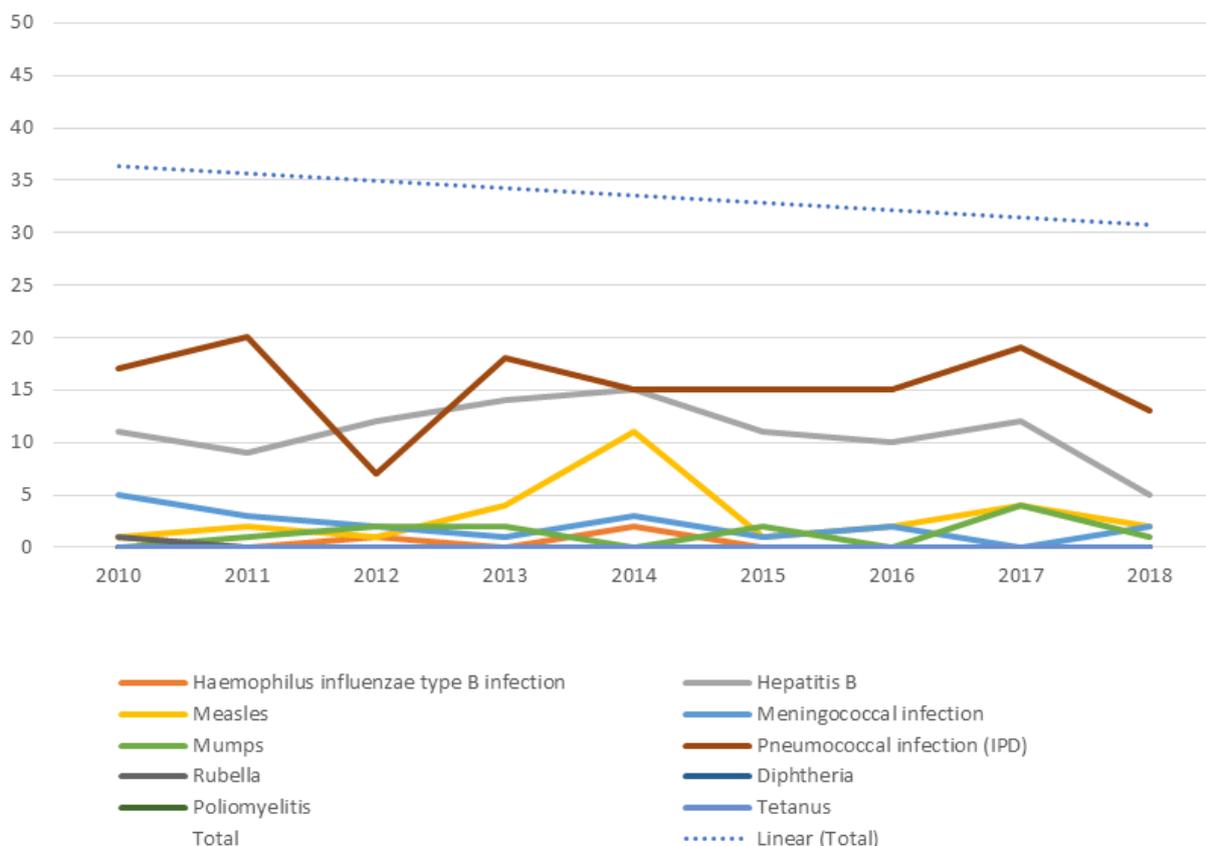
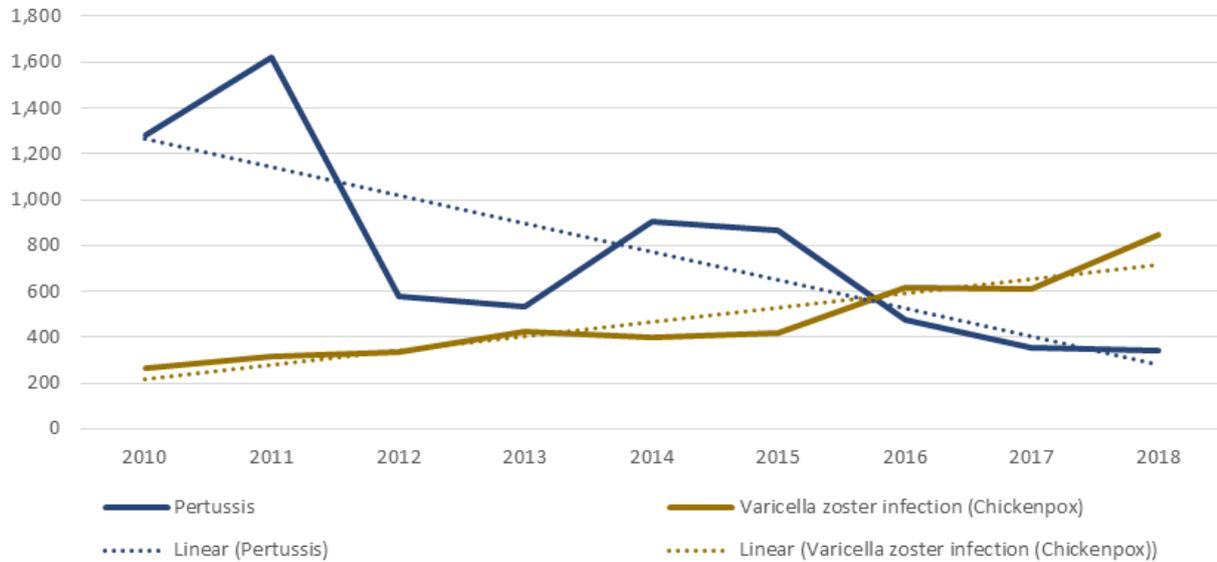


Figure 8.3 shows notified cases of vaccine-preventable diseases in primary school-aged children for varicella and pertussis only.

³ [Australian Government Department of Health](http://www.health.gov.au/internet/main/publishing.nsf/Content/8FA6078276359430CA257BF0001A4C42/$File/Australian_vaccine_preventable_disease_epidemiological_review_series_varicella-zoster_virus_infections,_1998-2015.pdf)

<[http://www.health.gov.au/internet/main/publishing.nsf/Content/8FA6078276359430CA257BF0001A4C42/\\$File/Australian_vaccine_preventable_disease_epidemiological_review_series_varicella-zoster_virus_infections,_1998-2015.pdf](http://www.health.gov.au/internet/main/publishing.nsf/Content/8FA6078276359430CA257BF0001A4C42/$File/Australian_vaccine_preventable_disease_epidemiological_review_series_varicella-zoster_virus_infections,_1998-2015.pdf)>

Figure 8.3: Notified cases of vaccine-preventable diseases in primary school-aged children (5–12 years) – varicella and pertussis only, Victoria, 2010–2018



This data supports the view that regulatory and legislative efforts to reduce the spread of disease in this cohort have been effective.

Ensuring the necessary information is available to inform appropriate public health interventions in primary schools and children’s service centres

The current regulations require primary schools and children’s services to retain immunisation history statements and to allow access to these statements to authorised officers in the event of an outbreak of a vaccine-preventable disease. Department of Education and Training data indicates that 85.2 per cent of 2019 Foundation students who enrolled in public primary schools in Victoria provided an immunisation history statement. Compliance with this regulatory requirement has improved over the period the current regulations have been in effect; up from 73.3 per cent in 2009.

Although the regulations have been generally effective in supporting the legislative goals of the Act, a range of minor improvements and clarifications to the regulations have been identified.

Option 2: Amend some aspects of the current regulations

Consultation with key stakeholders brought to light some opportunities for improving the current regulations. Proposed changes are based on consultation findings and aim to prevent the spread of infectious disease by improving the public health response to outbreaks in these settings. The proposed changes are listed in Tables 8.2 and 8.3.

Table 8.2: Objective: prevent the spread of infectious diseases in children in the high-risk settings of children’s service centres and primary schools

Proposed change	Rationale
1. Update diseases and exclusion periods in the regulations	To align with current evidence regarding infection control, reflect current nomenclature or clarify requirements.
2. Introduce infringement penalty those in charge of a primary school or children’s services centre who fail to exclude a child infected with, or exposed to, a specified	To: <ul style="list-style-type: none"> encourage compliance and provide an alternative means of addressing noncompliance where prosecution may not be feasible.

Proposed change	Rationale
infectious disease in accordance with Schedule .7	<ul style="list-style-type: none"> strengthen measures to prevent the further transmission of disease and protect vulnerable children in high risk settings <p>Noting this would only be considered where there is a deliberate intention to not comply or as a last resort. Education and assistance will be the primary means of achieving compliance. The department expects that the use of infringement notices would be a highly unusual occurrence.</p>

Table 8.3: Objective: ensure the necessary information is available to inform an appropriate public health intervention in these settings

Proposed change	Rationale
3. Remove the duty of a person in charge of a primary school or children’s services centre to notify the Secretary about an ill child	To reduce regulatory burden for the person in charge of a primary school, education and care service premises or children’s services centre; avoid processing of multiple notifications regarding the same case; and reduce the likelihood of misinformation and unnecessary exclusion spreading for the department.

1. Update diseases and exclusion periods in the regulations

Proposed change to regulations

It is proposed that Schedule 7, *Minimum period of exclusion from primary schools and children’s services centres for infectious diseases cases and contacts* be altered in line with emerging evidence relating to their risk or changes to standard nomenclature, as shown in Table 8.4.

Table 8.4: Proposed changes to Schedule 7

Proposed change to Schedule 7	Rationale
Add cytomegalovirus (CMV) infection, glandular fever (Epstein-Barr virus infection) and molluscum contagiosum to the list of excludable diseases with the advice that <i>exclusion is not necessary</i>	These conditions frequently occur and are a source of concern among schools; however, exclusion is not required. Adding these conditions to the list would reassure schools by providing authoritative guidance on what action is required.
Reduce the exclusion period for mumps from nine to five days.	These proposed changes reflect the latest published evidence-based guideline from the National Health and Medical Research Council on managing transmission of infection in children’s service centres and primary schools.
Amend the exclusion period for Haemophilus influenzae type B from four days to 48 hours after starting treatment.	
Update ‘HIV/AIDS’ to ‘HIV’.	This amendment reflects current accepted nomenclature.
Consolidate the multiple causes of diarrhoea – currently listed separately as amoebiasis, campylobacter, diarrhoea, salmonella, shigella, worms – into one regulated condition referred to	Some causes of diarrhoea are not listed (for example, rotavirus) but still require exclusion from primary school or children’s services centres to prevent the spread of infection.

Proposed change to Schedule 7	Rationale
<p>as 'diarrhoeal illness', with an exclusion period of 24 hours from the last loose bowel motion and vomiting.</p>	<p>Additionally, a diagnostic test for the cause of diarrhoea is not always performed, or it may not be available when a child's symptoms have resolved. These contributing factors limit the usefulness of separately regulated diarrhoea-causing conditions and can lead to confusion as to when and for how long a child should be excluded following a bout of diarrhoea causing illness.</p> <p>This amendment would clarify requirements for primary schools and children's service centres, as the organisations responsible for implementing exclusion regulations, with clear and specific recommendations that can be easily understood and adopted to protect children's health.</p>

2. Introduce infringement penalty for failure to exclude a child with, or exposed to, a specified infectious disease in accordance with Schedule 7 (person in charge of a primary school or children's services centres)

In accordance with Schedule 7, those in charge of a primary school or children's services centre must not allow the child to attend the facility. Schedule 7 prescribes minimum periods and circumstances of exclusion for a child infected with a specified infectious disease or in contact with a person who has a specified infectious disease.

It is intended to introduce an infringement penalty for this offence set at 4 penalty units, equivalent to \$661 in 2019–20, an alternative and practical means to achieve compliance where a prosecution may not be a feasible response.

Education will be the primary means of achieving compliance and the department will continue to provide support to facilitate awareness and compliance. It is intended that the department would only consider an infringement penalty where the person in charge has a deliberate intention to not comply.

Based on current compliance levels, the department expects that the use of infringement penalties would be a highly unusual. However, if circumstances do warrant action, an infringement penalty provides alternative measure to help protect vulnerable children from diseases or conditions that are either highly infectious or carry potentially severe consequences. It is considered in the context of the existing requirement for a parent or guardian to inform the person in charge of a primary school or children's care service if the child is suffering from a specified infectious disease, or the child has been in contact with a person who is infected with a specified infectious disease.

3. Amend the regulations to remove the duty of a person in charge of a primary school or children's services centre to notify the Secretary about an ill child

Proposed change to regulations

Under the Public Health and Wellbeing Regulations 2009, a person in charge of a primary school or children's services centre must inform the Secretary to the department if they suspect that an enrolled child is suffering from either:

- pertussis
- poliomyelitis

- measles
- mumps
- rubella, or
- meningococcal C.

It is proposed to remove r. 84(2), therefore removing the duty of a person in charge to notify the Secretary if they suspect an enrolled child is suffering from one of the listed conditions.

Rationale

The listed conditions are already notified to the department by medical practitioners and laboratories. The department undertakes routine follow-up activities after receiving a notification of a case of one of these diseases. Follow-up activities include contacting medical practitioners and guardians and identifying if the case attends a primary school or children's services centre and ensuring that appropriate isolation is undertaken, and that contacts are being managed. If the department determines the primary school or children's service centre needs to be contacted, the relevant principal is identified (either through discussion with the child's guardian(s) or liaison with the Department of Education and Training), and the department advises the principal of the required action (if any) to protect public health.

Requiring the person in charge of a primary school, education and care service premises or children's services centre to provide additional notification is no longer considered necessary. Feedback from consultation indicated that the provision has limited utility and tends to result in multiple notifications (as these conditions are already notifiable by doctors and laboratories). A school may still inform the department if concerned for the health of a student but is no longer required to.

Removing this regulatory requirement would reduce workload for the person in charge of a primary school or children's services centre and avoid multiple notifications regarding the same case.

Option 3: Reduce the current regulations and use non-regulatory alternatives

Reducing mortality from many infectious diseases has been described as the most significant public health achievement of the past century. Developing socially responsible legislation has played a crucial role in limiting the transmission of these diseases. Despite the huge gains made in this area, infectious diseases remain a significant cause of death worldwide, threatening public health and contributing significantly to the escalating costs of health care.

Increased spread of infectious diseases in children in the high-risk settings of children's service centres and primary schools

The possibility of reducing a list of conditions mandating exclusion from childcare services and primary school was considered as a component of this review; however, given the wealth of medical research, as well as the presence of mandatory exclusion periods in all other similar jurisdictions, this was not considered appropriate.

The base-case scenario where the regulations are eliminated and not replaced would mean there is no restriction of attendance at a primary school or childcare centre due to infectious disease. Many significant communicable diseases occur in this age group, such as pertussis, varicella zoster (chickenpox) and viral gastroenteritis. An increase in occurrences of these diseases in this group, and across the community more broadly, is a likely outcome of ceasing to regulate.

While the likelihood of exposure to vaccine-preventable diseases is significantly reduced by Victoria's very high immunisation coverage for babies and children, there are several factors that counteract the efficacy of vaccination in preventing the spread of disease in the high-risk settings of primary schools and early childhood education and care services:

- Population density creates an environment where more people are more frequently in confined conditions together, facilitating the spread of disease.
- More families with young children are travelling to overseas destinations with different disease profiles. In 2018, 11.1 million Australians returned from short-term overseas trips.⁴ All measles cases in Victoria are in returned travellers or spread from returned travellers. Children too young to be vaccinated are a key high-risk group.
- Emerging diseases and evolving pathogens continue to present challenges when seeking to prevent infection; in particular, the rise of antimicrobial resistance is considered a significant threat to public health that will render a common go-to treatment for children – a course of antibiotics – to become ineffective.

In the settings conducive to the spread of disease, such as primary schools and children’s services, the threat of infectious disease is high, and the need for appropriate regulation to reduce this threat remains.

Lack of necessary information available to inform an appropriate public health intervention in these settings

The department uses the information made available by these regulations to respond to incidences of disease and to prevent illness and disease from spreading. While, in some cases, the information can be obtained without regulation, the delay would impact on how effective any follow-up action could be in preventing disease.

For example, should an outbreak of measles occur in a primary school it may take several days or weeks to ascertain the immunisation status of students, putting unvaccinated and immunocompromised students at risk of contracting the disease.

Even with regulation, the availability of information required to determine a public health response in these settings is not always available.

Removing the regulation requiring such data would impede health authorities aiming to protect public health, who would not have access to the necessary information to inform an appropriate intervention in these settings. Reducing regulation is anticipated to have the same outcome, but to a lesser degree.

Impact analysis

Costs and benefits

The benefits and costs are described qualitatively in Tables 8.5 and 8.6. Any minor financial costs incurred by the changes are likely to be offset by efficiencies gained through clarification and reduction in regulatory burden.

Table 8.5: Objective: prevent the spread of infectious diseases in children in the high-risk settings of children’s service centres and primary schools – cost-benefit analysis of option 2

Proposed amendment	Benefit	Cost
Update diseases and exclusion periods	Regulatory requirements would be clearer, aligned with current evidence regarding infection control and reflect current nomenclature.	No costs are associated with this change.

⁴ [Australian Bureau of Statistics](http://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/3401.0Feature%20Article1Dec%202018)

<<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/3401.0Feature%20Article1Dec%202018>>

Proposed amendment	Benefit	Cost
Introduce infringement penalty for those in charge of a primary school or children’s services centre who fail to exclude a child infected with, or exposed to, a specified infectious disease in accordance with Schedule 7.	Supports action to prevent further transmission of infectious disease in a high-risk environment and provides an alternative and practical means to address noncompliance in certain circumstances.	An infringement penalty would only be considered where there is a deliberate intention to not comply or as a last resort. There is expected to be very minimal impact on primary schools and children’s services centre, noting that education and assistance is the primary means of achieving compliance.

Table 8.6: Objective: ensure the necessary information is available to inform an appropriate public health intervention in these settings – cost-benefit analysis of option 2

Proposed amendment	Benefit	Cost
Remove the duty of a person in charge of a primary school or children’s services centre to notify the Secretary about an ill child	The person in charge of a primary school, education and care service premises or children’s services centre will have a reduced regulatory burden; the department will reallocate resources currently used to processing multiple notifications regarding the same case and counteracting misinformation and unnecessary exclusions.	The department would incur a small cost in informing stakeholders of this regulatory change. No financial cost would be incurred by stakeholders. Minor savings may be incurred through avoiding unnecessary work.

Consequences of retaining the current regulations without changes

Non-regulatory alternatives and potential consequences of maintaining the current regulations without changes are detailed in Tables 8.7 and 8.8 for each proposed regulatory change.

Table 8.7: Objective: prevent the spread of infectious diseases in children in the high-risk settings of children’s service centres and primary schools

Proposed change	Non-regulatory alternative	Description of consequence
Update diseases and exclusion periods to align with current evidence regarding infection control, reflect current nomenclature or clarify requirements.	No viable alternative could achieve this objective as effectively as amending the regulations.	Without regulation the diseases and exclusion periods will remain as they are, continuing disparity with national guidelines and ongoing confusion and queries regarding exclusions.

Table 8.8: Objective: ensure the necessary information is available to inform an appropriate public health intervention in these settings

Proposed change	Non-regulatory alternative	Description of consequence
Remove the duty of a person in charge of a primary school or children’s services centre to notify the Secretary about an ill child to reduce regulatory	Undertake stakeholder engagement and communications with Victorian primary school principals with the aim of	Principals will be required to continue to report illness to the department; the department will continue to process multiple notifications, and unnecessary

Proposed change	Non-regulatory alternative	Description of consequence
burden for the person in charge of a primary school, education and care service premises or children's services centre; avoid processing of multiple notifications regarding the same case; and reduce the likelihood of misinformation and unnecessary exclusion spreading for the department.	clarifying the requirements of the regulations.	exclusions are likely to continue to occur.

Proposed approach

Option 2: Amending some aspects of the current regulations

The proposed changes described in option 2 are expected to assist the department to meet the objectives of the regulations pertaining to immunisation and exclusions in high-risk settings of children's service centres and schools in Victoria. The objectives are to:

- prevent the spread of infectious diseases in children in the high-risk settings of children's service centres and primary schools
- ensure the necessary information is available to inform an appropriate public health intervention in these settings.

Accessing the full regulatory impact statement

Information on infringements, consultation, implementation, evaluation and the exposure draft regulations are contained in the full regulatory impact statement available on the [Engage Victoria website](https://engage.vic.gov.au) <https://engage.vic.gov.au>.

This extract was prepared to assist stakeholders who access the report by accessing a specific category on the Engage website. This is not intended to limit the scope of submissions; the department welcomes submissions from all interested parties.

Making a submission to the review

Public comment is invited on the proposed regulations and RIS. Please note that all comments and submissions received will be treated as public documents.

Comments and submissions should be received by the Department of Health and Human Services no later than **5.00 pm, Monday 30 September 2019**.

The Engage Victoria website is the preferred method for receiving submissions. Submissions can also be received by [emailing the department](mailto:phwa.enquiries@dhhs.vic.gov.au) <phwa.enquiries@dhhs.vic.gov.au>, or post, marked 'Submission to the Review of the Public Health and Wellbeing Regulations 2009' and addressed to:

Chief Health Officer
Regulation, Health Protection & Emergency Management
Department of Health and Human Services
GPO Box 4057
Melbourne VIC 3001

Copies of the RIS and proposed regulations can also be obtained from the [Engage Victoria website](https://engage.vic.gov.au) <https://engage.vic.gov.au/>.