

**PUBLIC HEALTH AMENDMENT
(IMMUNISATION REQUIREMENTS FOR ENROLMENT) BILL 2019**

Committee

Resumed from 13 June. The Deputy Chair of Committees (Hon Robin Chapple) in the chair; Hon Sue Ellery (Minister for Education and Training) in charge of the bill.

Clause 1: Short title —

Progress was reported after the clause had been partly considered.

Hon SUE ELLERY: When we last debated the bill, I undertook to provide some additional information regarding the data on two-year-olds that was quoted in the second reading speech. The figure of 89.1 per cent used in the second reading speech was the annual immunisation coverage rate for two-year-olds, which is 24 months to 27 months old, in 2017. The source of the data is the Australian Immunisation Register, which provides quarterly reports to the Department of Health on the immunisation coverage rates of children in Western Australia by age group. The 89.1 per cent figure is the average of the quarterly data for 2017. The 2017 figure was used in that speech instead of a 2018 figure, because in May, when the bill was introduced into the Legislative Council, the Department of Health did not have access to the latest published 2018 annual immunisation coverage rate for two-year-olds. The 2018 annual figure became available to the department in early June. Immunisation coverage for two-year-olds in 2018 was recorded as 90.18 per cent. Both 2017 and 2018 data indicates that around 10 per cent of two-year-old children are not fully vaccinated, according to the national immunisation program childhood schedule.

Hon NICK GOIRAN: That 2018 data was available in June of which year?

Hon SUE ELLERY: In 2019.

Hon NICK GOIRAN: The most recent available figures are the 2018 information, which was available in June 2019. I had understood that the minister indicated that the commonwealth provided this information on a quarterly basis. Can the minister explain to the chamber the difference between the quarterly reporting and the annual reporting? If it is the case that there is a more recent quarterly report, which is the most recent quarterly report?

Hon SUE ELLERY: The most recent report is for quarter 4, December 2018, which was available to be accessed by the Department of Health in June 2019.

Hon NICK GOIRAN: Is that quarter 4 result the figure that the minister referred to earlier, or is that a previously annualised figure?

Hon SUE ELLERY: The 89.1 per cent figure that I referred to earlier is the average of quarterly data for 2017. The most recent available information for quarter 4 in 2018, which became accessible to the Department of Health in June 2019 for that age group, is a 90.68 percentage of coverage.

The DEPUTY CHAIR: Members, could I ask for a bit more quiet in the chamber. It is very difficult for other members to hear the minister. Thank you.

Hon NICK GOIRAN: The quarter 4 figures for 2018 are 90.68 per cent, but what is the average annualised figure for 2018? I understand that the second reading speech refers to a figure of 89.1 per cent, which is the average period for 2017. In other words, the addition of the four quarters divided by four gives us the figure of 89.1 per cent for 2017. The minister might recall that on the last occasion I was very keen to ensure that we are comparing like for like, so I am keen for us to know the 2018 information.

Hon SUE ELLERY: As I said when I stood to respond, the immunisation coverage for 2018 is 90.18 per cent.

Hon NICK GOIRAN: To finish on this point, to ensure that we are clear, the information or the data that the minister provided the chamber tonight is that the quarter 4 figure for 2018 is 90.6 per cent, but the annualised figure for 2018 is 90.18 per cent?

Hon SUE ELLERY: Just for absolute accuracy, the quarter 4 figure is 90.68 per cent.

Hon RICK MAZZA: The last time we were in Committee of the Whole House on this bill, I asked a question about exempt children and whether there was a time frame around how long it would be before an exempt child would need to be vaccinated. I think the answer I received from the minister was that there is no time frame; the department would follow up to try to have that child vaccinated. On the first page of the minister's second reading speech, the last paragraph outlines how the bill reinforces the message about protecting the community from serious infections. The minister also talked about children who cannot be vaccinated because they might have an allergic reaction to vaccinations or some other immune or compromised situation in which they cannot be

vaccinated. If an exempt child attends a kindergarten or childcare centre and they are not vaccinated, and in that kindergarten or childcare centre there is a child who cannot be vaccinated because of a medical condition, obviously someone who is unvaccinated could put them at unnecessary risk. Will the parents of the child who cannot be vaccinated for medical reasons be advised that an exempt child is attending who is not vaccinated?

Hon SUE ELLERY: I am advised that no, that is not necessarily the case, although I have to say that in practice, I think the parent of an unvaccinated child is most likely to try to take measures to ensure that the school knows about that. But in the same way that children in our community now are unvaccinated because of medical exemptions, limited, if any, protections can be put in place in the general community.

This bill has no provision for those children to be advised. The purpose of this bill is to lift the vaccination rate. As I said in my second reading reply, I appreciate people taking what I would describe, in the most genuine of senses, as a purist approach to this. I do not say that in a derogatory fashion at all, but the purpose of the bill is not to get to 100 per cent, because that is never going to be possible. The purpose of the bill is to try to use this as a measure to lift the general rate of vaccination. We know it will not be the solution to every exposure that a child might have. Its purpose is to try to lift the vaccination rate.

Hon MICHAEL MISCHIN: I think it is very important to understand the background to the manner in which the exemptions are framed and, indeed, whether they ought to be framed in that fashion. It is one thing to say that the government is trying to increase the level of vaccination in the community, but it is doing it at the expense of one demographic in favour of others. The minister has mentioned some of the vaccination figures. They appear to have gone up by a percentage point between 2017 and 2018. Is there a trend of increases, or are they remaining stable? Are we going to get to 95 per cent as a matter of course without this legislation?

Hon SUE ELLERY: The officers are finding me information to assist. The honourable member would be aware that in the second reading speech and in my reply I made the point, and the government has made the point, that Western Australia, unfortunately, lags behind other jurisdictions. This bill has been introduced in response to the issue being raised by former Prime Minister Turnbull, in an effort to try to lift the rate significantly in Western Australia, because we see no reason why we should be behind other jurisdictions. I will see whether I have any further information about the general trend.

From 2013 onwards, immunisation coverage in Western Australia has improved, but very slowly. For example, the difference between March 2013 and December 2018 for the 12 to 15-month age group was an increase from what looks to me to be just below 90 per cent to 93.8 per cent. In the 60 to 63-month age group, it went from a little below 90 per cent to a bit below 93.8 per cent. For the 24 to 27-month age group, there was an increase from what looks to me on the graph to be 91 per cent to a little bit higher in September 2014. Then there was a dramatic drop back to 85 per cent, and a bumpy increase to 90.7 per cent. There was an increase for that age group of about one per cent by the look of the graph figures.

Although there has been an increase, it has been very slow. Referring to the member's question about whether vaccination rates would naturally get to 95 per cent if we did not intervene, which this bill seeks to do, it is quite possible that we would, but the judgement of health professionals is that that would be very slow and that the legislation we are debating tonight would assist us to get there more quickly.

Hon MICHAEL MISCHIN: How many sets of vaccinations do children require? If a child is at the age of 12 to 15 months and has been vaccinated, that will presumably last them through the rest of their childhood at least, would it not? Is the government looking at that as an important group to start off with?

Hon SUE ELLERY: I am not sure how much information the honourable member requires, but there is a schedule of required vaccinations for different conditions. If the member wants me to table that, I can. The schedule has a lot of basic information. I do not mind tabling it rather than reading out the entire schedule.

Hon MICHAEL MISCHIN: It is the judgement of health professionals, then, that we need to take this initiative in order to improve our vaccination rates for the community's benefit. We are behind other states. To what extent has legislation to this effect influenced the vaccination rates in those other jurisdictions? Were they ahead of us in any event?

Hon SUE ELLERY: I canvassed this in my reply to the second reading debate. I will see whether I can find the information again, but I provided a response to that in my second reading reply.

Hon MICHAEL MISCHIN: More generally, this bill came about as an initiative of the Minister for Health; would that be right?

Hon SUE ELLERY: Again, as I have already advised the chamber, there was initially an expression of interest in states pursuing this from then Prime Minister Turnbull. He indicated that he was going to raise it at a Council of Australian Governments meeting. I set this all out in my second reading reply. The Western Australian government responded to that. Other jurisdictions responded as well. Accordingly, legislation has already been introduced and

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is in place in Victoria, for example. I have set out the other jurisdictions for the chamber already. If the member wants me to do that again, I will. New South Wales, Victoria and Queensland have implemented legislation and immunisation policies based on similar underlying policy objectives, and I set out the differences in my second reading reply. Similar legislation has been in place in New South Wales since January 2014, in Victoria since January 2016, and in Queensland since 2016.

Hon MICHAEL MISCHIN: Perhaps I did not make myself as clear as I should have. Who brought this bill to cabinet? Is it coming from the Minister for Health or the Minister for Education and Training?

Hon SUE ELLERY: My recollection—I do not think I am breaking any rules in saying this—is that it was a joint submission by the Minister for Health and the Minister for Education and Training.

Hon MICHAEL MISCHIN: That is what I am driving at. I am trying to understand who had the running of this. Is this a health initiative or is this a joint health and education initiative? This bill was introduced into this place by the minister in her capacity as Leader of the House and Minister for Education and Training, notwithstanding that we have a parliamentary secretary representative for the Minister for Health. We are told that it has been crafted on the advice of health professionals. What other consultation was involved in the crafting of the bill, the decisions on what exemptions would be provided, and the extent of those exemptions?

Hon SUE ELLERY: I am not sure whether the honourable member was perhaps out of the chamber when I gave my second reading reply, but I canvassed the consultation process. I also make the point, as I have just demonstrated to the member, that it was a joint submission to cabinet by the Minister for Education and Training and the Minister for Health, so nothing is unusual, therefore, about one of those ministers taking the bill through this chamber.

In terms of consultation, there was a working group with representatives of the Departments of Communities, Education, Health and Premier and Cabinet. I will get the member a more comprehensive list of the consultation process. There was a consultation draft of the bill and a consultation regulatory impact statement was publicly released. A range of stakeholders were consulted, including childcare service operators, schools, childcare advocates, child welfare groups, Aboriginal childcare and health services, non-government school associations, teachers' professional organisations, parents and guardians, health service providers, the Western Australia Immunisation Strategy Implementation Steering Committee, the Australian Medical Association, the Royal Australian College of General Practitioners, the Western Australian Local Government Association and the Small Business Development Corporation of WA. We received 547 submissions, and 73 per cent of those were from people who exclusively identified as a parent, guardian or member of the public.

Following consultation, a decision regulatory impact statement was prepared and approved. Compliance notices RG1685 and RG1424 were issued. The Department of Treasury was also consulted. I understand that the decision regulatory impact statement was made available to opposition members before we started discussion on the bill in the house.

Hon AARON STONEHOUSE: I have a couple of questions around clause 4, "Section 4 amended", about the way in which "child care service" is defined. I was trying to find a list of different childcare services and I had a bit of trouble with it, so I was wondering whether the minister could spell them out for us. I would like to ask this question now so that if any further questions come about around this topic, we have the ability to address them in clause 1, rather than being limited to discussion on clause 4. The bill states —

child care service —

(a) means —

(i) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1); or

I had a bit of trouble tracking down that legislation. The definition continues —

(ii) a child care service as defined in the *Child Care Services Act 2007* section 4;

That legislation refers to a prescribed list of childcare services, but it seems that the regulations are made under a separate act, and one starts to get a little lost trying to follow that thread. Can the minister list the childcare services that will be captured?

Hon SUE ELLERY: Long day care and family day care will be the only forms captured. The honourable member might be aware that there are other forms of child care, such as after-school care and vacation care. I addressed why they were not captured in my second reading reply speech. In order to be enrolled in out-of-school care, a child needs to be enrolled in school. In order to be enrolled in vacation care, a child needs to be enrolled in school as well. That is why they are not referred to in the legislation.

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Hon AARON STONEHOUSE: Excellent. Anything not defined as a childcare service will not be captured by this legislation. Paragraph (b) states —

does not include a child care service prescribed for the purposes of this definition;

It seems as though the legislation will allow for certain types of childcare services to be prescribed to be excluded from this legislation. Can the minister tell us a little about the intention there and what kinds of childcare services might be prescribed in those regulations?

Hon SUE ELLERY: That is a good question; I asked that question myself in the briefing. It relates to having flexibility in the event that there is another form of child care—for example, a variation of vacation care or out-of-school care that, unlike those two, may not be linked to school enrolment and needs to be captured in the legislation. In the event that a different model of child care ought to be captured—I cannot imagine what that might be—that is a catch-all provision to cover it.

Hon AARON STONEHOUSE: Is this provision to exclude types of child care that are not defined under paragraph (a)? Presumably, if someone thought up some other kind of childcare service, whatever it is—something that we cannot conceive right now—it would not necessarily automatically be captured, unless it met the definition in either subparagraph (i) or (ii). If the childcare service fell outside those definitions, it would not be captured. If it fell within those definitions but the minister thought that it was not the intention of the bill to capture that type of childcare service, there is the ability to prescribe to exclude it from this regime.

Hon SUE ELLERY: Yes, that is right. The member described that very well. It may well be that this new model of child care, which no-one has thought of yet, may well, like the other two that are excluded now, be linked to some form of school enrolment, in which case we would not need to catch it. The member's explanation and understanding of it is correct.

Hon NICK GOIRAN: I am happy to continue this line of questioning on clause 4, if the minister prefers to continue this theme now; otherwise, I will leave it until clause 4.

Hon Sue Ellery: Let us do it clause by clause.

Hon NICK GOIRAN: We will go back to clause 1.

The DEPUTY CHAIR (Hon Robin Chapple): I think that is exactly what we should be doing.

Hon NICK GOIRAN: Earlier, the minister mentioned to the chamber that the department or the government now has available to it data that it did not have at the time the bill was introduced—specifically, the 2018 annualised information. The minister kindly provided to the chamber the updated annualised figure for 2018, which is 90.18 per cent. That contrasts with 89.1 per cent, which was referred to in the second reading speech and which is, of course, the annualised figure for 2017. That figure is for two-year-olds. Does the minister have the annualised information for 2017 and 2018 for kindergarten-age children?

Hon SUE ELLERY: Yes, I do. Immunisation coverage in Western Australia for children aged 60 to 63 months, which is the age group the member is talking about, was 92.5 per cent for 2017 and 93.4 per cent for 2018.

Hon NICK GOIRAN: I find this very interesting because in both cases—the two-year-old and kindergarten-age data—it seems an approximate one per cent increase has occurred. Is the government aware of why the vaccination rate has improved by one per cent over that calendar year?

Hon SUE ELLERY: I do not have any information at the table to provide to the member. I do not mind getting an undertaking to see whether there is an explanation—whether there were particular programs that the Department of Health can identify as being influential. I do not mind seeking that information and providing it to the member at a later date, but I do not have it at the table.

Hon NICK GOIRAN: Thank you, minister. I do not want the department to go and do work, especially on this bill. But if the government chooses to pursue that information, I leave it to it. I would think that the government probably would want to pursue that, because it would be interesting to know the reason. There is no criticism on my part because, as the minister identified earlier, the government has only just become aware of this information. It was only available sometime in June, which is, of course, the calendar month that we are in currently.

I find it interesting that the vaccination rate has improved by approximately one per cent for two-year-old children and kindergarten-age children for reasons yet to be ascertained. Nevertheless, how does that two-year-old rate for 2018, which is the most recent data, and the kindergarten rate for 2018 compare with other jurisdictions?

Hon SUE ELLERY: I have it in a bar graph, which does have the numbers written on it. For the 60 to 63-month age group, Western Australia is the lowest by one percentage point at the lowest point of difference.

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Hon Nick Goiran: That is the 93.4 per cent for WA?

Hon SUE ELLERY: The figures are rounded up. It is 93.8 per cent for WA.

Hon Nick Goiran: That is for 2018, for the age group 60 to 63 months old?

Hon SUE ELLERY: Yes, for 60 to 63 months. For 24 to 27 months old, WA is 90.7 per cent. Again, we are below every other jurisdiction. The next closest is New South Wales, which is 90.9 per cent. Everyone else is close to 92 per cent and above. For the 12 to 15-month age group, again Western Australia is the lowest at 93.8 per cent. The next closest is Tasmania at 94 per cent. Everyone else is between 94 and 95.6 per cent.

Hon NICK GOIRAN: I understand that the information the minister just read from was the annualised figures for 2018, which is the most recent data. Comparing and contrasting —

Hon Sue Ellery: Can I just correct the member? It was the fourth quarter, not the annualised figure.

Hon NICK GOIRAN: Do we have the annualised figure?

Hon SUE ELLERY: I do. For 60 to 63 months, annualised 2018, Western Australia is the lowest jurisdiction at 93.4 per cent. The highest is Victoria at 95.7 per cent. The rest are around 94.6 per cent and above. For 24 to 27 months, Western Australia is not the lowest. The lowest is the Northern Territory. Western Australia is 90.2 per cent. The Northern Territory is 89.1 per cent. Every other jurisdiction then goes from 91.5 up to 93.4 per cent.

For 12 to 15 months, Western Australia is the lowest jurisdiction at 93.5 per cent, although the Northern Territory is only 93.7 per cent. The rest are 94 per cent up to 95.7 per cent.

Hon NICK GOIRAN: That is helpful. Obviously, one of the justifications that the government has made in its second reading speech is to say that WA had the lowest immunisation coverage for two-year-olds in 2017. What we now know, as a result of the information provided to the chamber, is that that is not quite the case when it comes to two-year-olds. Western Australia is the second lowest at the moment, with the Northern Territory. But in any case, Western Australia remains the lowest when it comes to kindergarten-age enrolment children, which is the 60 to 63-month age bracket, and also the earlier bracket, which is the 12 to 15-month bracket. I thank the minister for the provision of that information.

I will now move on to a different topic. When we last considered this matter on 13 June this year, the minister took on notice the issue of consultation with the Commissioner for Children and Young People. Subsequent to an interruption in our proceedings, the minister provided—I believe in fact tabled—an email the government received from the Commissioner for Children and Young People. That email is dated 12 June 2019. Can the minister inform the chamber whether that email is the only document recording the consultation process with the Commissioner for Children and Young People?

Hon SUE ELLERY: To the best of my information, yes, it is. I think the honourable member also asked me about the Minister for Health's motivation.

Hon Nick Goiran: Yes; what prompted the consultation.

Hon SUE ELLERY: The honourable member did. The Commissioner for Children and Young People was not previously consulted. I am advised that that was an oversight by the office of the Minister for Health. When Hon Nick Goiran raised the issue in the chamber, the Minister for Health's office contacted the office of the Commissioner for Children and Young People and I then tabled the response that was received.

Hon NICK GOIRAN: This is interesting because the email that has been drafted by the Commissioner for Children and Young People, Mr Colin Pettit, on 12 June 2019, reads —

Good afternoon Stephen.

Please see my response to your question—Would like to know where you sit on the balance between education and health?

He then proceeds to provide his response in bold text, and it is signed "Regards, Colin". It seems odd that this is the only document that records the consultation process when the commissioner is specifically providing a response to the question from Mr Pratt.

Hon Sue Ellery: What I said was it is the only correspondence that I am aware of. There may be other bits, but I am not aware, and no-one at the table is aware.

Hon NICK GOIRAN: I understand the minister to say that it is possible that there is other documentation in the possession of the government that records the consultation process.

Hon Sue Ellery: There could be.

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Hon NICK GOIRAN: That might be in the form of emails, letters, file notes, memorandums, briefing notes and the like. We do not need to hold up the passage of the bill over that, but I guess for future reference it would be useful, when a member asks about the consultation process, that we can be sure of the list of information. Nevertheless, I will leave further questions about the commissioner's response until clause 8, because he has some comments to make about that. I will not quite categorise them as a concern.

I move to a different topic. It is really a follow-up question to what the minister told Hon Michael Mischin about the schedule. The minister indicated that she would be in a position to table the schedule, if requested. I request that the minister does that so we can be clear about what the schedule is at the present time as the bill is passing through this chamber.

Hon SUE ELLERY: I am happy to table it. I might need to get copies, otherwise we will not have one at the table. I will arrange for copies to be made.

Hon NICK GOIRAN: I will continue while that schedule is being copied and distributed. I am not sure whether the minister needs to wait for the schedule to come back to her. Obviously, what is taking place here is that we as a chamber and you as the government are saying to the people of Western Australia, "There are certain vaccinations that we want you to have before you can enrol your child at kindy. If you do not have those vaccinations, regrettably, you are not able to be enrolled in a Western Australia kindergarten, unless you meet one of the exemptions." We will talk about exemptions later.

Can the minister indicate what are the compulsory vaccinations that a parent who wants to enrol their child in kindergarten next year would have to give their child in order to be enrolled?

Hon SUE ELLERY: The document has been copied and I think is being distributed. It is headed on the front page, "National Immunisation Program Schedule". On the front page, the childhood vaccinations from birth to four years are required to be completed and demonstrated in order for enrolment to take place, unless there is an exemption.

Hon NICK GOIRAN: It has been brought to my attention that that document has not been formally tabled. Perhaps the minister can do that on the next occasion that she gets to her feet. It was being copied. Be that as it may, I understand that this document sets out for the parents of Western Australia precisely which vaccinations they must ensure their child has in order to be enrolled in a kindergarten in Western Australia. I see that this schedule is dated "from 1 April 2019". I take it that the schedule gets updated, changed or amended from time to time. That being the case, who decides if this compulsory immunisation list is to be added to?

The DEPUTY CHAIR (Hon Robin Chapple): Minister, before you respond, I will note that that document has been tabled.

[See paper 2817.]

Hon SUE ELLERY: I am advised that, essentially, the commonwealth sets the schedule through the national immunisation program. The changes that it makes from time to time are based on public health needs and vaccine development.

Hon NICK GOIRAN: What oversight will the Western Australian Parliament have over such additions?

Hon SUE ELLERY: None—it does not have oversight now, and it will not as a consequence of this bill.

Hon NICK GOIRAN: Thanks to the minister and the tabling of the document, parents in Western Australia now know what vaccinations they must have in order to enrol their children in kindergarten. If the commonwealth is to add vaccinations to this schedule without any oversight from Western Australian Parliament, how does a parent inform themselves that there have been these additions?

Hon SUE ELLERY: As I set out in my second reading reply, when a parent goes to enrol their child, they will be provided with a vaccination information kit. That kit will include the most up-to-date information from the national immunisation program. It is also available online, but parents will be provided with that information when they go to the school, kindy or childcare centre to enrol their child.

Hon NICK GOIRAN: If a parent does not want to wait until the enrolment kit to realise that they are in for a nasty surprise because they cannot enrol their child—they do not meet the exemption and their child has not had all the vaccinations—is the only way for them to find out to look at the tabled paper that is now before us or to go online to this website that the minister has referred to?

Hon SUE ELLERY: As I outlined in my second reading reply, the action that has already been taken to assist and ensure that the information is in the public domain includes media statements made on the introduction of this bill and the proposal to introduce the bill in December 2018. Assuming that not every parent sits by their device or television awaiting government media announcements—I know, it is shocking—information is also available on the Department of Health's website; the Department of Health's starting schools campaign, which is an annual

event; and social media, through the Department of Health. In the event that the bill passes, the Department of Health has developed a communications plan, which includes information on how families can continue to learn about the new immunisation enrolment requirements and what it means for them. That includes media statements, the Department of Education's enrolment pack, information including FAQs—frequently asked questions—on the Department of Health's website, and information on the Department of Health's social media. In addition, under existing regulations, the Department of Health has already requested that children currently enrolled in childcare services, kindergarten programs and preprimary who are under-vaccinated or whose immunisation status is unknown be reported to the Department of Health. With that information, the Department of Health will undertake intensive follow-up with those families to support them in accessing immunisation services and ensuring that the child is caught up. As I said, for new enrolments, information will be in the enrolment packages that direct parents and guardians on how to meet the new immunisation enrolment requirements.

Hon NICK GOIRAN: Referring to this schedule, as at 1 April 2019, I draw your attention to the list of vaccines that are required and the diseases that they seek to immunise against. In the “6 months” bracket, I note that it states —

Additional vaccines for Aboriginal and Torres Strait Islander children (QLD, NT, WA and SA) and medically at-risk children.

We park to one side the issue of the additional vaccines for Aboriginal children, because, as we know, this government has determined that it wishes to exempt Aboriginal children from this scheme. For the purposes of the passage of this bill, at least from the government's perspective, it really does not matter what the list of vaccines are for six-month-old Aboriginal children, because they will be exempt in any case. What is the situation with medically at-risk children? Who are medically at-risk children, and what are these additional vaccines that they will need?

Hon SUE ELLERY: If the member looks on the back page, there is a note. I think he probably cannot see in the photocopy that there is a little “c” next to the “medically at-risk children”. That refers to the Australian Immunisation Handbook for all medical risk factors. I do not have a copy of that at the table. I could probably get the honourable member a copy, but it would not be tonight.

Hon NICK GOIRAN: That does not help us. Once this bill passes, a parent in Western Australia who wishes to enrol their child in a childcare service needs to know whether their child is medically at risk.

Hon Sue Ellery: They already know.

Hon NICK GOIRAN: The minister cannot tell me what the definition of “medically at-risk child” is. That is what I want to know. The minister says that they would know. I do not know. I do not have a six-month-old child as it so happens.

Hon Sue Ellery: You have had a few, though.

Hon NICK GOIRAN: Yes, but I think it is appropriate for us to know who these medically at-risk children are and what additional vaccines they will need. We will get to the issue of exemptions, but it is not clear to me that they are automatically exempt. Are they one and the same as those people who get medical exemptions or is there a difference between what the commonwealth describes as a medically at-risk child and those who might get a medical exemption?

Hon SUE ELLERY: My assumption is that a medically at-risk child is determined to be medically at risk by a medical practitioner. I need to refer to the handbook, which we do not have a copy of here. I have already given an undertaking that if it would be helpful to the member, I am happy to provide it, but it will not be tonight.

Hon NICK GOIRAN: Irrespective of the definition of “medically at-risk child”, will they be captured by this bill?

Hon SUE ELLERY: I am advised that they would be captured.

Hon NICK GOIRAN: What are the additional vaccines that these children who will be captured by the bill will need to have?

Hon SUE ELLERY: I am advised that that little paragraph that starts “Additional vaccines” refers to the disease pneumococcal, and the relevant vaccine brand, which is in the column on the right-hand side, is Prevenar 13.

Hon NICK GOIRAN: To be clear, then, for parents reading this schedule, when it comes to the six-month-old child, they need to have their child vaccinated only for the diseases in the first list, not the second list, unless the child is Aboriginal or Torres Strait Islander or medically at risk.

Hon SUE ELLERY: Yes, that is how that part of the schedule is read.

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Hon MICHAEL MISCHIN: I take it that the reason that six-month-old medically at-risk children, in addition to being vaccinated for diphtheria, tetanus, pertussis or whooping cough, hepatitis B, polio and haemophilus influenza type B, need to get a pneumococcal vaccination with Prevenar 13 is a particular susceptibility to that disease.

Hon SUE ELLERY: That is what I am advised. I have already made the point that I do not have the handbook here, which would spell that out in any kind of detail.

Hon MICHAEL MISCHIN: I understand that. Likewise, at four years old, which is getting to the kindergarten stage, there is an additional vaccine for medically at-risk children for pneumococcal, but this time it is with Pneumovax 23, in addition to, once again, diphtheria, pertussis and polio. Again, presumably that is because at the age of four years these medically at-risk children, however they are classified from time to time in the handbook, are particularly prone to a pneumococcal virus, if it is a virus.

Hon SUE ELLERY: Yes.

Hon MICHAEL MISCHIN: It follows then that at six months old, in addition to the diphtheria, tetanus vaccine et cetera, the additional vaccines for Aboriginal and Torres Strait Islander children, particularly in Queensland, the Northern Territory, Western Australia and South Australia, for pneumococcal virus is because of a particular vulnerability to that disease or at least a prevalence of that disease amongst children of that demographic.

Hon SUE ELLERY: I am advised yes, and it is a combination of two things. It may well be in particular for Aboriginal and Torres Strait Islander children, but it is also Aboriginal and Torres Strait Islander children in Queensland, the Northern Territory, South Australia and Western Australia.

Hon MICHAEL MISCHIN: Likewise, at 12 months, an additional inoculation for hepatitis A is prescribed, in addition to meningococcal ACWY; measles, mumps, rubella; and pneumococcal, for Aboriginal and Torres Strait Islander children in Queensland, the Northern Territory, Western Australia and South Australia. Is that a particularly prevalent malady amongst children of that demographic?

Hon SUE ELLERY: That is why it would be on the list.

Hon MICHAEL MISCHIN: Ditto, at 18 months, additional vaccines for Aboriginal and Torres Strait Islander children are available in those states and the Northern Territory, yet one of the exemptions, notwithstanding that we are concerned with this health measure, is to exclude those children from compulsory vaccination. The minister said that the advice for that was from educationalists presumably located within the education department. What are educationalists and what do they do?

Hon SUE ELLERY: Does the member seriously want me to explain that to him?

Hon MICHAEL MISCHIN: I can understand what a teacher is, I could stretch the point and know what an educator is, but what is an educationalist?

Hon SUE ELLERY: That is a bit of jargon, my friend.

Hon Michael Mischin: That is why I am asking you to explain it.

Hon SUE ELLERY: I would have thought it was self-explanatory, but I will assume that it is not. If the member rereads my second reading speech, he will note that I refer to the Productivity Commission's report on the importance of intervention and connection with education for those categories, including Aboriginal and Torres Strait Islander children. In my reply to the second reading debate I made the point, and I have made it again several times, that this is a balance. Although I can appreciate at first glance that there might be a point of view that we ought to take a purist approach and that it seems counterintuitive when we first look at this to say that we are going to grant an exemption for some of the most disadvantaged children in our community, we are weighing up the pros and cons of setting a policy objective that is to lift the rate—not to provide a single silver bullet and not to take a purist approach that says that every child must be vaccinated. In reaching that balance, those people who are engaged in the education policy settings in Australia, and, indeed, internationally, from the Productivity Commission down relied on all sorts of bits of research, not the least of which was the research relied on by the previous government when it made the decision, which I wholeheartedly supported and continue to support, to establish KindiLink to ensure that there was culturally appropriate early years engagement for Indigenous students. Reams of research suggests that the most important thing is to get those disadvantaged children in the education setting. In setting the policy of the bill, as I said in my second reading reply, we have not taken a purist approach. We have taken the approach that the best balance is to have those children enrolled in the program and then make sure that the Department of Health follows up to provide those families with support to get the vaccinations that they require.

Hon MICHAEL MISCHIN: That is the whole point, is it not, around the exemptions? If I were a child and had a health problem, I would not consult my teacher; to find out what treatment I should get, I would consult a doctor. This bill is trying to lift vaccination rates, presumably for a health objective not only for the children who are being required to be vaccinated, but also others in the preschool setting for their safety. The minister has told us that

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other jurisdictions have used slightly different formulae for exemptions, including grace periods and provisional enrolments. The minister has eschewed that course and she insists that it has to be done as a health requirement, yet from what she has informed us, the balance is being struck not by medical practitioners, but by educationalists who are trying to ensure that certain groups in the community are going to be in preschool. For members to decide on their position on Hon Rick Mazza's proposed amendment, it is important to understand that the balance has been struck correctly and has the endorsement of medical practitioners.

I do not subscribe to their view, but I have received an awful lot of material from parents who do not want to have their discretion, if you like, to vaccinate their children taken away from them. I do not agree with them and I do not think that stands in the way of the health measure, but it does seem odd that the government is prepared to take the view that their objections do not count in one case, yet an entire demographic that the minister has just told us is vulnerable to certain diseases ought to be ignored from a health perspective because the government wants them to be in preschool. We need to understand whether, as part of the consultation, the educationalists were the ones setting the balance or whether medical practitioners were involved in that decision as well. Once the balance was set, was there any consultation with health specialists on whether these exemptions ought to be allowed; and, if so, what was the outcome of that consultation?

Hon SUE ELLERY: I get that the honourable member thinks it is odd; I understand that. But I think he is missing the point. I tried to make it in my second reading reply and I have tried to make it a couple of times since then, but obviously I have not done a very good job. I have also set out that as a consequence of the consultation, draft information, including the decision regulatory impact statement, was circulated to people. A consultation draft of the bill and a consultation regulatory impact statement, which included the services to be excluded and the proposed classes of children to be exempt, were circulated far and wide to take into account all the views, including, just on the health professional side, the views of health service providers, the WA Immunisation Strategy Implementation Steering Committee, the Australian Medical Association and the Royal Australian College of General Practitioners. In respect of whether health professionals got to consider the balance that was proposed by government, the answer is yes.

Hon MICHAEL MISCHIN: The obvious follow-on question is: was there any objection or cavilling by the health professionals about the exemptions that had been put to them or did they all agree and say, "Yes, this sounds like a great health measure to exclude Aboriginal and Torres Strait Islander children from vaccination if they do not want to have it, notwithstanding their proclivity towards these debilitating, if not fatal, diseases"?

Hon SUE ELLERY: I am advised that, having been consulted on the draft of the bill and the consultation regulatory impact statement, which canvassed the proposed classes of children to be exempt and the proposed childcare services to be excluded, and once the decision regulatory impact statement was published, there was no response from the AMA but there was a response from immunisation providers that was supportive. After the consultation on the draft bill and the consultation regulatory impact statement, which canvassed those things specifically, the AMA, which is not backward in coming forward, did not express a view one way or the other.

Hon NICK GOIRAN: I have only a couple more questions on clause 1. On the back page of the schedule that the minister helpfully tabled earlier under the heading "Funded annual influenza vaccination", it refers to "6 months and over with certain medical risk factors". The minister indicated earlier that medically at-risk children will be captured by this bill. Does that mean that they will need to have the annual influenza vaccination in order to be enrolled?

Hon SUE ELLERY: No, it does not. As I said when I tabled the document, the vaccinations that are required are listed on the front page. The member will note that there is a different heading on the back page that he has drawn my attention to, which just provides information about which influenza vaccinations are funded.

Hon NICK GOIRAN: This is what I would describe as a non-compulsory vaccine. Can parents be provided with a list of the other non-compulsory vaccines that their children will not necessarily have to have to be enrolled?

Hon SUE ELLERY: That really is beyond the scope of the bill. I do not mind providing the honourable member with that information separately, but it has nothing to do with the bill before us.

Hon NICK GOIRAN: I know why the minister said that, but if I can elaborate, I think the minister will agree because probably like the rest of us she has been bombarded with emails from people about various concerns. It strikes me that some of those people might be concerned about the non-compulsory vaccinations rather than some of the compulsory ones. If there is a list of the non-compulsory vaccines, we could helpfully indicate, "That's not even one of the ones that you're going to need to have", and that might appease some of their concerns.

Hon Sue Ellery: By way of interjection, I don't mind providing that list but I don't have it now.

Hon NICK GOIRAN: No, but will the minister take advice on whether such a list exists or is likely to exist?

Hon SUE ELLERY: I would have to pull that information off. I do not mind doing that but I cannot do it now.

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Hon NICK GOIRAN: But the minister is happy to undertake to do so in the fullness of time?

Hon Sue Ellery: Yes.

Hon NICK GOIRAN: Thank you.

At the very bottom of the back page of the schedule to the left of the heading “For more information” it reads —
Contact your State and Territory Health Department for further information on any additional immunisation programs specific to your State or Territory.

What additional immunisation programs are specific to Western Australia?

Hon SUE ELLERY: These are the ones described as statewide programs. It is meningococcal at three different ages.

Hon Michael Mischin interjected.

Hon SUE ELLERY: No, I am not referring to that document, honourable member.

Hon NICK GOIRAN: If that is a state-specific program, is it the case that when a child reaches the three age levels to which the minister referred, a parent would need to comply with the vaccinations specific to Western Australia to be enrolled?

Hon SUE ELLERY: No. The list of vaccinations that are required are on the front page of the document headed, “National Immunisation Program Schedule”, which I tabled earlier.

Hon NICK GOIRAN: The minister will see that under, shall I call it footnote (a), it states —

Hepatitis B vaccine: Should be given to all infants as soon as practicable after birth. The greatest benefit is if given within 24 hours, and must be within 7 days.

What happens if it is not given within seven days? Does that mean that an infant can never be enrolled in an education facility in Western Australia?

Hon SUE ELLERY: The medical advice, as I understand it, is an instruction to parents and practitioners that they must give it within seven days. However, I am advised that if a child does not have it within seven days but has it subsequently, their enrolment would not be refused.

Hon NICK GOIRAN: So the hepatitis B vaccine does not need to be given within seven days for the purpose of enrolment?

Hon Sue Ellery: For the purpose of enrolment, no.

Hon NICK GOIRAN: The document states that it must be given within seven days. It seems to me that this document is in error because what it should read is, “The greatest benefit is if given within 24 hours, and preferably no later than 7 days”, but that is not what it states. It states that it must be given within seven days. Has the government identified any other errors in this document?

Hon SUE ELLERY: I do not accept the premise of the question that there is in fact an error in the document. This is a medical list. I have already outlined what is required for enrolment, including hep B at birth. I am advised—I just advised the chamber of this—that the best advice available to me is that although the best medical advice is that it must be given within seven days, enrolment would not be refused if the parent could demonstrate that the child had the vaccination subsequent to the seven days.

Hon NICK GOIRAN: Is the hepatitis B vaccine still effective if it is given after the seven days?

Hon SUE ELLERY: I do not have a medical practitioner sitting at the table. The best advice I have is that which I have already explained to the chamber. I am not able to give the member any medical advice about the veracity or otherwise of that vaccination seven days after birth.

Hon NICK GOIRAN: I do not really find that satisfactory, which is regrettable because this is the area I wanted to cover before we move forward. I want to pause here for a minute. Earlier, we said that if Western Australian parents want to enrol their child in kindergarten, they need to comply with the schedule that has been tabled. We identified earlier that the schedule can be changed by the commonwealth at any time and it can do so without oversight by the Western Australian Parliament. The only time that there will be oversight is right here and now. The very first of the vaccines that must be provided is hepatitis B at birth. It is not satisfactory for us to not be able to provide clarity about the very first vaccine, otherwise the minister can imagine that we might ask questions about the second, third, fourth and fifth vaccines and stumble onto the same problem. If the schedule is the ultimate guide to what Western Australian parents must do, it is troubling that it states that the vaccine must be given within seven days, and for whatever particular reason a child does not have it within seven days, it is appropriate for us to tell our constituents who are parents in that situation that their child has to have the hepatitis B vaccine. I understand that it is necessary that they have the vaccine in order for the enrolment to take place, but we are not really sure

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whether the vaccine will be effective. Perhaps the minister can indicate how we can resolve this dilemma. I really do think it is unfair for Western Australian parents if they want to clearly understand the expectations of them with regard to the very first vaccine that they must give their child at birth.

Hon SUE ELLERY: I certainly give an undertaking to pursue some medical advice. I do not think it is unusual that I would not have a medical practitioner sitting at the table —

Hon Peter Collier: That is a bit average!

Hon SUE ELLERY: You are not being very helpful, my friend.

Several members interjected.

The DEPUTY CHAIR (Hon Robin Chapple): Members, the minister is on her feet replying and we are dealing with clause 1.

Hon SUE ELLERY: I am happy to give an undertaking that I will seek some advice from a medical practitioner, but I do not have that advice available now.

Hon NICK GOIRAN: That is fine in the sense that this is not fatal to clause 1, but when we get to clause 8, when we will prescribe for Western Australian parents what is required of them, we need to be on top of this issue for the vaccination at birth. So that we are clear and the advisers and the government have absolute clarity about what we want to know, we want to know whether the hepatitis B vaccine is effective if it is given to a child after seven days, notwithstanding that the schedule states that it must be given within seven days. If we can have that information available to us when we get to clause 8, I think that will assist in the passage of clause 8. Having said that, I have no further questions on clause 1.

Hon MICHAEL MISCHIN: I have one additional area to explore. The minister consulted a document that provided information about the level of concern about or opposition to the exemptions proposed. Is the minister able to table a copy of that?

Hon SUE ELLERY: No, I am not. It is advice provided to me. I do not mind getting it to the member in a different form, but I cannot give the member the document that I was referring to.

Hon MICHAEL MISCHIN: The minister is assuring us that medical specialists were either content with the exemption of certain categories of children from the requirement, other than on medical grounds, to be vaccinated compulsorily, or were at least silent on that subject. Is that right?

Hon Sue Ellery: I have already done that. The member has just repeated what I have said.

Hon MICHAEL MISCHIN: I just want confirmation that that is the case. There was no opposition from pro-vaccination health officials concerning this particular mandatory vaccination policy?

Hon Sue Ellery: I have already answered the question.

Hon MICHAEL MISCHIN: Help me. I take it that there was none; is that the idea?

Hon Sue Ellery: I have already responded to this question.

Hon MICHAEL MISCHIN: I want to avoid any misunderstandings later. Is that what the minister is saying? Is that a yes or a no?

Hon Sue Ellery: I have already responded to the question.

Hon MICHAEL MISCHIN: Yes—which way?

Hon Sue Ellery: I have read it out three times, I am not responding any further.

Clause put and passed.

Clause 2: Commencement —

Hon NICK GOIRAN: Before we move to the proposed amendment on the supplementary notice paper, does the government consider this bill urgent?

Hon SUE ELLERY: I am not sure that I would use the word “urgent”, but there is a time line involved, which I explained to the chamber in my second reading speech, in order to maximise the benefit for the enrolments that will happen in term 3, which is 22 July, for term 1 in 2020. Given that the bill is in this chamber on this particular day and that the other place also rises on Thursday, if the member wants to describe that as urgent, I suppose that might fit the definition. But the purpose of the timing, of wanting to get it through before we rise, is to maximise the capacity and take advantage of the enrolments that will happen in term 3 for 2020.

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Hon NICK GOIRAN: In order to maximise the benefit, there is a time line involved and the government would like the bill passed through both chambers this week in order to maximise that benefit. Would the minister agree that in order for the benefit to be maximised, all provisions in the bill will need to be operative?

Hon SUE ELLERY: Yes.

Hon NICK GOIRAN: In which case, why is the majority of the bill being left to commencement by proclamation?

Hon SUE ELLERY: It is to allow time for the regulations to be drafted.

Hon NICK GOIRAN: At what stage is the drafting of the regulations?

Hon SUE ELLERY: I am advised that they are advanced but not yet completed and it is hopeful that they will be completed very soon after, assuming that the bill proceeds through both chambers.

Hon NICK GOIRAN: What does it mean that the drafting of the regulations is advanced? Does it mean it has started or it is nearly finished? The minister says it is not completed; what remains to be done? Is it simply a case of waiting for the bill to pass so that the final print button can be pressed? Can we have some further elaboration on the distinction between advancement and not yet completed?

Hon SUE ELLERY: I am not sure I can, honourable member, with the greatest of respect. They are not completed yet, there is still more work to be done. They have certainly started and that work is advanced, but they are not yet completed.

Hon NICK GOIRAN: Is there more than one version of the draft regulations in existence?

Hon SUE ELLERY: I am advised that there have been two drafts. The department is waiting to complete a third draft, and that will depend on what the bill looks like when it comes out of Parliament.

Hon NICK GOIRAN: Would the minister be able to table the second of those drafts?

Hon SUE ELLERY: No, I would not.

Hon DONNA FARAGHER: A new person enters the discussion! Could I just get some clarity? I am sorry, I might have just missed it. I appreciate that the regulations are still being drafted, albeit at an advanced stage. Does the minister anticipate a date or month, perhaps, as to when the regulations will be finalised—July or August? What does she think?

Hon SUE ELLERY: There are a couple of unknowns: what the final version of the bill looks like when it leaves the chamber, then depending on that, what variations need to be done for the third draft, and then the availability of Executive Council et cetera. It is hoped that the regulations will be ready as soon as possible. It would be great if that was in July. There are a couple of variables but we do not know which way they will fall.

Hon DONNA FARAGHER: I reflected on the reason for asking that question in my second reading contribution. Is it correct that the Department of Education website indicates that enrolments are now open?

Hon SUE ELLERY: I am advised that the answer is yes, and that they are always open.

Hon DONNA FARAGHER: I appreciate that they are always open, but I add that the department's website states —
Enrolments are now open. Please return your application to your local school by Friday 26 July 2019.

Enrolments are now open and this legislation has not even passed this chamber. The regulations are not finalised, but the minister is hopeful that they might be done in July. Can the minister confirm that there are children who have already been enrolled who will not be covered by this legislation?

Hon SUE ELLERY: The answer is yes. There are others who have an application that has not been confirmed, and those who have already been enrolled. If it is helpful to the member, we are trying to maximise the benefit for 2020, but we recognise that there may be some children in this transition period who have already enrolled and will not be captured by this legislation. However, we are trying to maximise the number that we capture.

Hon DONNA FARAGHER: Does the minister have an idea of how many students have already enrolled?

Hon SUE ELLERY: No. That information is held at the school level, and we are talking about the non-compulsory numbers. We have projections of what we think the enrolments will be, but they are projections. The member will appreciate that we will not get a final number until census, which is in week 2 of term 1. We do not have them here, but we can give the member projections for what enrolments are likely to be in the year. I do not think we could give the member information for a point in time. It would be possible to gather that information, but it would require a survey of every school, and I am not sure that I would allocate the resources to do that.

Hon DONNA FARAGHER: I am not suggesting that the minister do that. I would not place that additional burden on the schools. My point is that the government has been indicating that this bill is urgent and needs to be in place in time for enrolments for next year. I appreciate what the government is trying to do with this legislation. However, the bill should have been introduced at the beginning of the year. Can the minister advise why it was not?

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Hon SUE ELLERY: I appreciate the point of view held by the honourable member. It is not an unreasonable position to take. However, it was quite a complex exercise, with an extensive degree of consultation, which I have already described. With the very best will and intent, we find ourselves in the position we are in. We are trying to maximise the benefit of this legislation for 2020, but recognise that it will not be perfect for 2020. I take the member's point. It is not an unreasonable point to make.

Hon NICK GOIRAN: When this bill was last before the chamber on 13 June, the minister mentioned that the exemption eligibility form had yet to be developed. When will it be ready?

Hon SUE ELLERY: Once the detail of the legislation has been determined by Parliament and the details are known, the document will be developed.

Hon NICK GOIRAN: Has the government obtained advice about how long the development of the form will take?

Hon SUE ELLERY: I do not think I can give the member a precise date. It is hoped that it will not take very long. It is noted that other jurisdictions have developed a kind of template, but I cannot give the member a precise date.

Hon NICK GOIRAN: The minister mentioned earlier that the majority of the bill is being left to proclamation because of the need to prepare regulations, that two drafts of the regulations have been prepared, and that the government is busy working on the third draft. Could clauses in the bill that do not contain regulation-making powers commence on assent?

Hon SUE ELLERY: I do not think anyone can provide me with advice about whether there is anything specific that would be of any practical benefit without the regulations being in place. I cannot give the member an answer to that question. Nobody can provide me with advice that there is anything that would be of practical benefit and would be worth coming into operation before those bits that require regulations, which are obviously the guts—the core—of the change.

Hon NICK GOIRAN: Is there any problem with clause 3 of the bill commencing on assent?

Hon SUE ELLERY: No, there is not. I have advice that we can support the amendment standing in the member's name. Parliamentary counsel recommends that, from a drafting perspective, we do not do so, because a proposed section in a bill cannot be commenced without also commencing the relevant part of the bill. Clause 2 has been drafted according to parliamentary counsel's current drafting practice. If an amendment is required to bring proposed sections 3, 11A and 12 into operation prior to commencing the remainder of parts 2 and 3 of the bill, parliamentary counsel has recommended a particular form of words for the amendment. I can support the member's amendment, but parliamentary counsel says that it is better not to.

Hon NICK GOIRAN: In which case, I move —

Page 2, line 7 — To delete “Part 1” and substitute —
sections 1 to 3, 11A and 12

Hon SUE ELLERY: I had advice from parliamentary counsel recommending the amendment be written in a particular way. It was not drawn to my attention earlier that I should have placed this amendment on the supplementary notice paper. In the amendment that I seek to move, clause 2 would read —

This Act comes into operation as follows —

- (a) Part 1, Part 2 (other than sections 4 to 11) and Part 3 (other than sections 13 to 21) — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

That would achieve the outcome sought by the honourable member in a form that is acceptable to our friends at the Parliamentary Counsel's Office.

The DEPUTY CHAIR (Hon Matthew Swinbourn): If Hon Nick Goiran wishes to seek leave to withdraw his amendment, he can do that. That would allow the minister to proceed with her amendment.

Hon NICK GOIRAN: Minister, I indicate that I am prepared to do that. Before I do so, it would be helpful to circulate the proposed amendment. What the minister described seems very satisfactory, but I would not mind seeing the amendment first.

I thank the minister for the circulation of the foreshadowed amendment that she will move. On the basis that there is an understanding that the minister will move the amendment, I seek leave to withdraw the amendment I have just moved.

Amendment, by leave, withdrawn.

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Hon SUE ELLERY: I will move the amendment that has just been circulated. I move —

Page 2, lines 6 to 10 — To delete the lines and substitute —

This Act comes into operation as follows —

- (a) Part 1, Part 2 (other than sections 4 to 11) and Part 3 (other than sections 13 to 21) — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

The DEPUTY CHAIR: The minister has moved an amendment in her name. The question will be that the words to be deleted—that is, lines 7 to 10—be deleted. All those of that opinion say aye.

Hon NICK GOIRAN: Mr Deputy Chair, you said lines 7 through to 10. I think it is lines 6 through to 10.

The DEPUTY CHAIR: Member, I think the confusion comes from the fact that the words “This Act comes into operation as follows” is already in the clause. It would be only those lines that follow after the wording “This Act comes into operation as follows”—that is, paragraphs (a) and (b). It is repeating those existing words. If we delete line 6, we will only reinsert exactly the same words.

Hon MICHAEL MISCHIN: If that is the reasoning, the only part we are really substituting is paragraph (a). Paragraph (b) remains the same; does it not?

The DEPUTY CHAIR: The minister has moved the amendment in her name. The effect of that will be that lines 7 and 8 will be deleted and the words to be inserted will be inserted. For the purposes of clarity, those words are —

- (a) Part 1, Part 2 (other than sections 4 to 11) and Part 3 (other than sections 13 to 21) — on the day on which this Act receives the Royal Assent;

Amendment put and passed.

Clause, as amended, put and passed.

Clause 3 put and passed.

Clause 4: Section 4 amended —

Hon NICK GOIRAN: There had been an initial discussion following on from some good questions raised by Hon Aaron Stonehouse under clause 1 that really pertain to clause 4. I understand from that exchange between the minister and the member that the immunisation enrolment requirements will apply to long day care and family day care, but will not apply to out-of-school-hours care and vacation care. The minister explained that the reason for that is that children who attend those services need to be enrolled in school already. What is the situation with regard to mobile care services and occasional care services?

Hon SUE ELLERY: I am advised that variances in operating hours and regulatory requirements of other types of temporary, casual or ad hoc services, such as mobile services and occasional care, make it impracticable for those childcare services to be subject to the new immunisation requirements for enrolment.

Hon NICK GOIRAN: Minister, if parents are not happy with the arrangement that the government is putting in place as a result of this bill, do they need only avail themselves of mobile care services and occasional care services and then they can proceed with their status quo arrangements with their children and their vaccination?

Hon SUE ELLERY: Theoretically, yes, but the nature of the child care that is provided is different from long day care. Neither mobile care or occasional care is going to meet their needs if what they need is long day care. The nature of those are that it has to be for casual purposes; it is not ongoing. I do not think that that would actually be the practical effect because it would not meet the same needs that long day care or family day care meet.

Hon NICK GOIRAN: Is there some form of statutory definition of what “mobile care service” or “occasional care service” is?

Hon SUE ELLERY: Those services are described in regulation 5(2)(c) or (h) of the Education and Care Services National Regulations 2012.

Hon NICK GOIRAN: I note the regulation the minister referred to. Regulation 5(2)(c) states —

a service providing education and care to children primarily on an ad hoc or casual basis where —

- (i) the service does not usually offer full-time or all day education and care to children on an ongoing basis; and
- (ii) most of the children provided with education and care are preschool age or under;

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Who determines whether a childcare service meets that definition? Is there some form of auditing or enforcement agency that ascertains whether somebody falls under that statutory definition?

Hon SUE ELLERY: Yes, there is. At both a federal and state level, childcare services are heavily regulated and there is enforcement. There are spot audits and planned audits. Those things happen at both levels of government.

Hon NICK GOIRAN: In this case, is this not the point: that these people are excluded from that so they are not considered to be an education and care service?

Hon SUE ELLERY: They are excluded from the provisions that come out of this piece of legislation; they are not excluded under the kind of broad regulatory framework that is enforced by both the federal and state governments.

Hon NICK GOIRAN: I have in front of me a copy of the Education and Care Services National Regulations 2012. In chapter 1, regulation 5 is titled “Services that are not education and care services”. Subregulation (2) states —

For the purposes of paragraph (h) of the definition of *education and care service* in section 5(1) of the Law, the following classes of service are excluded from the definition of education and care service —

Paragraph (c) is the one we just dealt with. It strikes me that they are not included, unless some other satisfactory explanation can be provided.

Hon SUE ELLERY: I have further advice. I think the answer I gave the member earlier was not precise and not accurate. I am advised that those ad hoc casual mobile services are regulated under the Child Care Services Act 2007, which is a state act.

Hon NICK GOIRAN: That is captured by state law. Who enforces that state law or ascertains whether a childcare service meets that definition?

Hon SUE ELLERY: It is the Department of Communities’ education and care regulatory unit.

Hon NICK GOIRAN: Does this unit provide some form of a report on an annual basis, or is the minister in a position to indicate how regularly it undertakes these types of audits to ascertain who is and who is not an ad hoc or casual-based service?

Hon SUE ELLERY: I can answer the first bit of the member’s question: yes, they are published online. My recollection is that when the member’s side was in government, some additional publication of breaches of those state-based regulations was introduced. I think Robyn McSweeney was the relevant minister at the time. What was the second part of the question?

Hon Nick Goiran: The first one was on the reporting. The second one was who actually does the enforcement or the auditing to ascertain whether somebody meets this definition?

Hon SUE ELLERY: It is that unit that I referred to earlier.

Hon NICK GOIRAN: The minister also referred us to regulation 5(2)(h). It states —

a service providing education and care primarily to children preschool age or under that transports its equipment and materials or staff to one or more locations on each occasion that the service is provided;

Is it that same unit that also regulates that particular type of childcare service?

Hon SUE ELLERY: Yes, it is.

Hon NICK GOIRAN: Given we have determined that some of these childcare services are not captured by this regime we are putting in place, does the government know how many children who attend childcare services will be captured by this bill and how many will not?

Hon SUE ELLERY: I am advised that for both occasional care and mobile services, there are only a small number—we think about 11. I am going to see whether, from behind the Chair, I can get some advice about the number of children enrolled in childcare centres. If I cannot get it now, I undertake to give it to the member at another time.

Hon NICK GOIRAN: When the minister says there are approximately 11, that is 11 services—not to be confused with 11 children?

Hon Sue Ellery: Correct.

Hon NICK GOIRAN: Do we know how many children attend those 11 care services?

Hon SUE ELLERY: No, I do not have that information. If I can get it from behind the Chair, I will happily give it to the member, but I do not have it at the table.

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Hon NICK GOIRAN: I understand that the government intends, by virtue of clause 4, to prescribe a number of childcare services that will be excluded from the operation of this bill. The minister has standing in her name on the supplementary notice paper an amendment that I understand from a briefing I previously obtained captures the childcare services that will be excluded. I will take the minister to that supplementary notice paper. The proposed amendment states —

- (i) a service described in the *Education and Care Services National Regulations 2012* regulation 5(2)(c) or (h); or

We have just dealt with that —

- (ii) an outside school hours care service, a school holiday care service or any part of a service that is an outside school hours care service or a school holiday care service; or

The minister has already explained that although those services will be excluded, the students will not be, because they will already have been enrolled in the school. The amendment continues —

- (iii) a service prescribed by the regulations for the purposes of this definition.

Are there any other services that the government now intends to prescribe, other than what the minister said earlier to Hon Aaron Stonehouse, which was, “Look, we’d like that in there anyway, just in case there is another model of care that is developed in due course that we’re not currently aware of”?

Hon SUE ELLERY: I am no longer going to be moving that amendment. It is preferable that the services as described remain in the regulations. The bill currently provides for the childcare services that do not fall within the definition of “child care service” for the purpose of the immunisation requirements on enrolments to be prescribed in regulations. That is the government’s preferred position. The current definition of “child care service” in the Public Health Act 2016 is —

- (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1); or
- (b) a child care service as defined in the *Child Care Services Act 2007* section 4;

It is proposed that the childcare services that do not fall within this definition and will be prescribed in the regulations are those services described in the Education and Care Services National Regulations 2012, regulations 5(2)(c) or (h). These are occasional and mobile care services and outside-school-hours care services. This includes before or after-school hours and vacation care services. The decision to specifically exclude occasional, mobile, outside school hours and vacation care was made to avoid a duplicated or unnecessary regulatory burden for these services. Children who attend before or after-school care also attend school; therefore, their immunisation status will be reported when they enrol in a kindergarten program. Standalone vacation care services will not enrol a child unless they are enrolled in a school, so the immunisation status of children attending these services will already be collected by a school. Additionally, variances in operating hours and regulatory requirements of other types of temporary, casual or ad hoc services such as mobile services and occasional care make it impracticable for these childcare services to be subject to the new immunisation requirements for enrolment. There are many types of childcare services in operation that do not fall under the regulatory requirements of the Education and Care Services National Law (WA) Act 2012 or the Child Care Services Act 2007. Excluding services in the regulations provides the ability to accommodate services that in future may be captured under these pieces of legislation, but for regulatory reasons it may still be impracticable or unnecessary to subject them to the immunisation enrolment requirements.

Hon NICK GOIRAN: My question is that subparagraph (iii) of the amendment that stands in the minister’s name—I appreciate that she has indicated she is not intending to move that—would still give the government the ability to prescribe further services that would be excluded. My question is: What are those services that the minister intends to prescribe? Is there anything other than what we have already discussed, which is out of school hours and vacation care, mobile and occasional care services? Is there anything other than what the minister has already said to Hon Aaron Stonehouse, which is that the government really wants that there just in case another model gets developed in the future that it is not aware of?

Hon SUE ELLERY: The member has accurately described the situation; it is as I have explained to Hon Aaron Stonehouse.

Hon NICK GOIRAN: Given that is the case and we are all abundantly clear what the government wants to exclude, why would it not be done in the act and be left to regulation instead, particularly as the government already has the amendment in?

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Hon SUE ELLERY: I thought I had already explained, but perhaps not as eloquently as I should have. The government prefers the original position that we took, which was that these things are best reflected in the regulations in order to meet, if we need to, any particular demands that might arise because some new version of child care is created that none of us have thought about. That was our original position. We suggested the amendment when it looked like we might have a different set of agreements reached with the members opposite; that has not been possible to achieve, so we want to preserve the original position, which we put in the bill before the chamber, which is to keep those things in regulations.

Hon NICK GOIRAN: We must not confuse proposed new section 4 with proposed new division 8. We will get to those exemptions at a later stage. Here, if the government moved the amendment standing in the minister's name, it would preserve the very thing that the minister has just indicated the government wants to preserve. The government wants to preserve the possibility of excluding future services that it is not currently aware of. If we have the bill in its current form, the government would be able to do that; if we have the bill in the amended form as on the supplementary notice paper, the government would still be able to do that, because proposed section 4(1)(b)(iii) would read —

a service prescribed by the regulations for the purposes of this definition.

The government would still be able to do that in any event. The minister's amendment only adds clarity that the things that the minister is saying are going to be excluded by regulation anyway; out of school hours and vacation care, mobile and occasional care services are definitely excluded. I do not understand why we would not do this now, rather than leave it by regulation. I am not sure that the government is advantaged by leaving it to a later stage.

Hon SUE ELLERY: I do not have a person from the Department of Communities at the table with me, but I am advised—I am sorry if this gets confusing; it is kind of a double negative—that if we put it in the act, we do not have the capacity to remove those parts in my amendment for proposed section 4(1)(b)(i) and (ii). I am advised by the people who are here, who are not from Communities, so I am loath to say, “Well, there is no practical change”, which is what the member is suggesting, “I will go ahead and move the amendment”. I am loath to do that when the advice that I have from Communities—the department that deals with the regulation of child care—is that it is preferable for us to proceed as was originally drafted and to not put those provisions into the act. I am sorry if that is a double negative, but that is the best advice that I have been able to get.

Hon NICK GOIRAN: I wonder whether the minister would be open to deferring proposed section 4 so that she can go away and check that. It seems to me that we are actually not far away from a position. If I can further explain, the concern that I had and raised in my second reading contribution was what I described as a “junior Henry VIII clause”. In the bill, it is clause 4(2)(b). Clause 4(2)(b) will be included in the bill in any event, either in the current version or the amended version on the supplementary notice paper. I indicate that I am still not enamoured with what I have described as a junior Henry VIII clause; nevertheless, it is understood that that will be included in any event. That being the case, it strikes me that the bill would be improved by having the clarity provided by the amendment on the supplementary notice paper. Henry VIII Jr will be retained, but there is also the addition of the express exemptions intended to be included by regulation. In fact, it means there will be one less regulation to draft or one bit less of the third draft to prepare, which might speed up the whole process and assist with term 3 enrolments. I wonder whether a way forward may be to temporarily postpone clause 4, with the understanding that the government might come back and say, “Yes, that's fine; let's move the amendment standing in our name”, and we get through clause 4 speedily, or it says, “No, we really like Henry VIII Jr all by himself and we do not want anything else anywhere near him.”

Hon SUE ELLERY: I would rather not, but I guess for the purposes of seeking the advice, I will postpone clause 4 until I can get better advice.

Further consideration of the clause postponed, on motion by Hon Sue Ellery (Minister for Education and Training).

Clause 5: Section 91 amended —

Hon NICK GOIRAN: My questions here really relate to clauses 5 and 6, because they seem to come together. Are clauses 5 and 6 unrelated to the proposed immunisation enrolment scheme?

Hon SUE ELLERY: As I think I said in my second reading speech, these clauses are unrelated to the immunisation policy in the bill. If the member wants, I can give him a quick explanation. The amendments to clause 5 are required to address practicality issues with applying the notification requirements in part 9 of the Public Health Act to acute rheumatic fever and rheumatic heart disease. The proposed amendments will enable the existing notification requirements for these conditions under the Health (Rheumatic Heart Disease Register of Western Australia) Regulations 2015 to continue under the new act. Clause 5 also provides for a new subset of

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notifiable infectious disease–related conditions that are required to be urgently notifiable. Clause 6 of the bill provides that urgently notifiable infectious disease–related conditions are to be notified within 24 hours.

Hon NICK GOIRAN: Are any other clauses in the bill unrelated to the proposed immunisation enrolment scheme?

Hon SUE ELLERY: Yes, clause 11, which is required to ensure that local governments can continue to commence proceedings under the Public Health Act, as they do under the Health (Miscellaneous Provisions) Act 1911.

Hon NICK GOIRAN: I understand that clauses 5 and 6 have been included because it has been identified that technical amendments to the legislation need to be addressed prior to implementing the remaining provisions of the Public Health Act 2016. During that process, were any other technical amendments identified that have not been incorporated in this bill?

Hon SUE ELLERY: No.

Hon NICK GOIRAN: What conditions are currently declared by regulation to be notifiable infectious disease–related conditions?

Hon SUE ELLERY: I have to say the most ridiculous things!

Hon Nick Goiran: Are they difficult to pronounce?

Hon SUE ELLERY: Yes!

Hon Nick Goiran: I am happy for you to table it.

Hon SUE ELLERY: I am going to give it my best shot. The first is acute post-streptococcal glomerulonephritis, commonly known as APSGN.

Hon Michael Mischin: That one!

Hon SUE ELLERY: Yes! The second is acute haemolytic uraemic syndrome, commonly known as HUS.

Hon NICK GOIRAN: I thank the minister; well done! What conditions will be declared by regulation to be an urgently notifiable infectious disease–related condition?

Hon Sue Ellery: Both.

Hon NICK GOIRAN: So both of them?

Hon Sue Ellery: Yes.

Hon Michael Mischin: Do you want to run through them again?

Hon NICK GOIRAN: No, we do not! These two conditions are currently declared by regulation to be notifiable infectious disease–related conditions. This bill gives the government the capacity to declare by regulation an urgently notifiable infectious disease–related condition, and they are the two same conditions.

Hon SUE ELLERY: Someone is just checking whether there is a third one. The advice I have is that proposed section 91(1A)(b) is a new regulation-making power that provides for a subset of notifiable infectious disease–related conditions to be required to be urgently notifiable. It is proposed that the regulations will specify the notifiable infectious disease–related conditions to be urgently notifiable, and those are the two I just read out and will not read again. I am just double-checking that there is nothing else.

Hon NICK GOIRAN: I understand that these conditions are currently required to be notified within 72 hours. I take it that it is preferable that these conditions be urgently notified, with “urgently” being less than 72 hours. Why is that the case?

Hon SUE ELLERY: The most current emerging public health advice is that they need to be notified within 24 hours to the Department of Health to prevent risk of transmission.

Hon NICK GOIRAN: Is it intended that other conditions will need to be notified only within 72 hours?

Hon SUE ELLERY: Yes, there is one medical condition that will continue to be required to be notified within 72 hours, and that is an adverse event following immunisation.

Hon NICK GOIRAN: Once this bill passes, clauses 5 and 6 will give the government the opportunity to issue regulations requiring that these conditions—APSGN and HUS—be notified within 24 hours instead of the current 72-hour period. What is the time in which those conditions need to be notified in other Australian jurisdictions?

Hon SUE ELLERY: I do not have that information here. We can find out for the member.

Hon NICK GOIRAN: Do we know whether the purpose behind the 24-hour period is to try to be consistent with other Australian jurisdictions? The minister mentioned that it was emerging public health advice. Is this public

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health advice that is provided to ministers at the Council of Australian Governments level? What public health advice is the minister talking about?

Hon SUE ELLERY: As I understand it, it would be Chief Health Officer to Chief Health Officer, but I do not have that information here. It is not a bunch of politicians making these decisions, although the Chief Health Officers might provide advice to relevant ministers on how to incorporate those things in legislation. I do not have the answer here. We can undertake to get it for the member, but I expect that it is Chief Health Officer to Chief Health Officer.

Hon NICK GOIRAN: Yes, I am happy to progress on the basis that the minister has indicated that she can provide that at some later stage.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Section 135 amended —

Hon NICK GOIRAN: Can the minister indicate to the chamber why clause 7 is necessary?

Hon SUE ELLERY: I am advised that it is a consequential amendment to changing the definition of the word “school”.

Hon NICK GOIRAN: Will the government agree that my amendment is desirable?

Hon SUE ELLERY: I am not sure that I would use the word “desirable”. However, I am able to support it. It is a minor technical amendment. It is supported simply because it makes it consistent with the wording earlier in section 135, which refers to “other educational institution”. It is a drafting addition for clarity. The amendment will have no other effect.

Hon NICK GOIRAN: Given my experience on clause 2, can the minister indicate whether parliamentary counsel has provided any advice to the contrary?

Hon SUE ELLERY: No, they have not. I would have drawn that to the member’s attention if they had.

Hon NICK GOIRAN: In that case, I am pleased to move —

Page 6, line 2 — To insert after “university or” —
educational

Amendment put and passed.

Clause, as amended, put and passed.

Clause 8: Part 9 Division 8 replaced —

Hon RICK MAZZA: Even though I empathise with the exempt child group, and I understand the importance of education, particularly early education, I am, as described by the minister, a purist on the protection of children from diseases that could be prevented through vaccination. I have real difficulty with the prospect of a child who has a medical condition that prevents them from being immunised being exposed to somebody who could be immunised but are not. So in that case, I move —

Page 6, lines 24 to 26 — To delete the lines.

Hon SUE ELLERY: We will not support this amendment for the reasons that I have essentially already outlined to the chamber. The member’s proposed amendments would delete the definition of “exempt child” and proposed section 141D(2)(e). These amendments would mean that only children who fall within proposed section 141D(2)(a) to (d) would be permitted to enrol in a childcare service or kindergarten program. As I have already outlined, the bill balances the need to protect the community from serious infectious diseases with the need to recognise that certain children in the community experience vulnerability or disadvantage. They would be disproportionately negatively affected by the new immunisation requirements should they not be permitted to enrol in early education. Early childhood education is particularly important for vulnerable and disadvantaged children. These services may also be the first point of intervention, so these children should be supported to ensure their continued participation in these services.

Hon AARON STONEHOUSE: Just to clarify what we are looking at, the removal of the definition of “exempt child” would not prevent in practical terms an exemption for a child who has a medical condition that prevents them from being immunised, because an immunisation certificate can be issued to children in those cases. That is my understanding of it. I just make that clear for anyone observing this debate. It was put to me in a briefing on this bill that having exempted children still enrolled would allow the Department of Health to follow up those children to encourage the responsible person to have them immunised. I wonder whether the minister can expand

on that a little bit. How would the Department of Health follow up a child if there is no coercive measure? If there is no way to compel the responsible person to get their child immunised, what measures does the Department of Health employ in chasing up that child?

Hon SUE ELLERY: I outlined this in my second reading reply, but I am happy to provide this information. The Department of Health will follow up with the families of those children to provide additional support in accessing local immunisation services as a means to ensure that these children receive the missing vaccinations. Communications with these families will provide information on how to access their Australian Immunisation Register record, how to get their immunisation history updated, where to access local immunisation services, how to access translation services if required and where to find more information on the immunisation requirements. The planned follow-up strategy for the children in the metropolitan area is as follows: an email is sent to families by the communicable disease control unit in the Department of Health; after one month, families of remaining under-vaccinated children will receive an SMS reminder from the communicable disease control unit in the Department of Health; and, after a further month, the families of remaining under-vaccinated children will be contacted by phone by the metropolitan communicable disease control public health unit. For under-vaccinated children in the regions, the communicable disease control unit has provided additional funding for the WA Country Health Service to follow up with these families through the public health units, and each of the public health units will provide this follow-up through their preferred approach within their local communities and across their regions.

Hon CHARLES SMITH: I indicated my support for the bill in my second reading contribution. In that short speech, I noted that the exemptions in the bill were notably vague. I said that although I have some concerns about how the exemptions for those medically unable to be vaccinated will work and what the government will define as “disadvantaged”, I support the intention of the bill. My opinion has not changed, and I voice my support for Hon Rick Mazza’s amendment to delete the exempt child provision. Ultimately, this provision suffers from what I call the law of unintended consequences. Although the provision seeks to do a noble thing, which is good, this somewhat blanket approach to exemptions will create significant holes for failure.

Hon ALISON XAMON: I rise on behalf of the Greens to indicate that we will not be supporting the amendment proposed by Hon Rick Mazza. I recognise the motivation behind it. I understand that the member has a particular concern that, where possible, all efforts should be made to minimise the number of children who are potentially exempt. I recognise that a number of people in the community share that view. Nevertheless, I have concerns about the children who potentially should be able to access vaccination catch-up regimes or, as I will talk about further on in this clause, may have other quite important reasons that they need to look at delaying vaccinations, including a whole range of complexities that exist from being a child. As such, it is quite important that these exemptions remain. I remind members that from the outset this legislation is all about trying to balance competing rights—one being the right to public health and the other being the right to early education. Unfortunately, the amendment as proposed tips that balance too far and, as such, we cannot support it.

Hon NICK GOIRAN: In considering the amendment moved by Hon Rick Mazza, it seems to me that the government can take one of three approaches. The first is the approach offered by Hon Rick Mazza, which is that if we are super serious about this immunisation regime, the only exemptions that will be allowed are medical ones. The second option is to allow the government to do what it has proposed in the bill, which, in effect, would potentially allow the carve out of every child in Western Australia by way of regulation; in other words, it would give the government a massive power to exempt children from this regime. The third option is the approach foreshadowed by the government, albeit I appreciate that the minister has indicated that the government will not be proceeding with that approach, which is to enshrine in legislation all the exemptions the government wishes to make. As we contemplate the amendment moved by Hon Rick Mazza, the list of exemptions on the supplementary notice paper under the minister’s name at amendment 5/8 are obviously the exemptions that the government intends to prescribe by regulation at a later stage. Are they the same as the proposed exemptions for children that are listed in the second reading speech?

Hon SUE ELLERY: There is one difference, which I referred to in my second reading speech; namely, a child who has an approved secretary’s exemption from the commonwealth’s family assistance law childcare subsidy immunisation requirements or an approved exemption from the additional childcare subsidy immunisation requirements due to being at risk of serious abuse or neglect. It will not proceed, to reduce overlap and confusion with some other exemption classes. Children who may fall within this exemption would likely fall in another exemption class. They will be captured by the exemptions about a child being a child in need of protection under the Children and Community Services Act or in crisis and emergency accommodation. Furthermore, subsequent research found that no child in WA has yet been granted a secretary’s exemption from the immunisation requirements for the additional childcare subsidy for being at risk of serious abuse or neglect.

Hon NICK GOIRAN: To be clear, is there an error in the second reading speech?

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Hon SUE ELLERY: I am advised that a decision was made subsequently to the second reading speech.

Hon NICK GOIRAN: It is a very good thing, minister, that we have the Committee of the Whole House process to scrutinise these things, because if the government had had its way and rammed the bill through both houses of Parliament in a day, this exemption process would not have been found. It is somewhat troubling to note that the second reading speech states that the government is going to do something, only for us to find out that it is not going to do it at all. Be that as it may, it is up to the government to decide what exemptions it wants to provide to the people of Western Australia pursuant to this very broad-ranging regulation-making power. Is the minister in a position to provide the chamber with advice on the reasons that each of the eight classes of exemptions that the government proposes to prescribe by regulation require exemption?

Hon SUE ELLERY: I will preface my comments by saying that I do not necessarily accept the premise of Hon Nick Goiran's previous contribution and that some of these reasons have already been referred to in either my second reading reply or the debate to date.

Hon Nick Goiran: I was asking whether the government had received any advice on the basis upon which these exemptions are necessary. What is the advice that has been obtained?

Hon SUE ELLERY: That is what I am about to give you.

Hon Nick Goiran: Some of it may have been covered in previous contributions.

Hon SUE ELLERY: Some of it has; some of the comments that I have made are based on that advice. If a child is an Aboriginal or Torres Strait Islander, this aligns, as I have mentioned already, with the commonwealth's Closing the Gap strategy. It is important that these children do not have further barriers to accessing early education. It is also an exemption in New South Wales and Victoria. If a child is in need of protection as defined under the Children and Community Services Act 2004—I have already referred to this as well—living in these circumstances is often a proxy indicator of exposure to family violence, addiction, abuse and/or neglect. These circumstances likely indicate a parent's inability to prioritise their child's health and/or access immunisation services. This is also an exemption in New South Wales and Victoria. When a child is living in crisis or emergency accommodation because of family violence or risk of family violence or homelessness, living in these circumstances is often a proxy indicator of exposure to family violence, addiction, neglect and/or homelessness. These living circumstances may have presented challenges that have hindered a parent's ability to prioritise their child's health and/or access immunisation services. I refer to a child who has been evacuated from their ordinary place of residence because it is in an area of the state to which a declaration has been made under section 56 of the Emergency Management Act 2005. In such circumstances, the child's family, and maybe even their childcare service, may have been displaced and the child is required to enrol in another childcare service or kindergarten program. Due to disruptive living circumstances, the parents may experience difficulty in prioritising their children's health and accessing immunisation services. A child who is in the care of an adult other than the child's parent or guardian because of exceptional circumstances—for example, illness or incapacity of their parent or guardian—is also exempt. Living in these circumstances may often be a proxy indicator for exposure to violence, addiction and/or neglect. This circumstance may also apply to parents or guardians who, due to an unexpected illness or incapacity, have had their child put into the care of another adult. A child is exempt if they are in the care of a responsible person who holds any of the following: an automatic issue Health Care Card issued under the Social Security Act 1991; a Pensioner Concession Card issued under the Social Security Act 1991; or a white or gold card issued by the federal Department of Veterans' Affairs in relation to the person's entitlement for treatment under the Veterans' Entitlements Act 1986. Income support payments may also be a proxy for the disadvantaged and a more complicated picture. Although vaccinations are provided free of charge, families who fall under this exemption may be dealing with other barriers and/or stressful circumstances that have made it hard for them to prioritise preventive health measures for their children, such as immunisation. A child who first entered Australia not more than six months before the time of enrolment and who holds or whose parent holds a visa, as defined in the Migration Act 1958 section 5(1) of a kind prescribed is also exempt. Refugee and humanitarian visa subclasses that are proposed to be prescribed are subclasses 200, refugee; 201, in-country special humanitarian; 202, global special humanitarian; 203, emergency rescue; 204, woman at risk; 785, temporary protection; 790, safe haven enterprise; and 866, protection. These visas are the current protection and refugee visas available under the Australian government refugee and humanitarian program. These children may have difficulty providing immunisation records or may still be getting their immunisations recorded on the Australian Immunisation Register. This exemption would mean that newly arrived children, with less than six months in Australia, would be able to commence early education and care immediately while they catch up on missing immunisations through the Western Australian Humanitarian Entrant Health Service—HEHS. The six month entrance time line aligns with the childcare subsidy immunisation exemptions for children on a refugee or humanitarian visa.

Hon NICK GOIRAN: That is a massive explanation for the eight categories and classes of children who the government says that it wishes to exempt from this scheme. It wishes to do so by asking this chamber to grant to

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it a broad regulation-making power, which I have described as a junior Henry VIII clause. In fact, the more I hear this, the more I am wondering whether the use of “junior” is apt, because the number of exemptions that will be provided is quite incredible. Does the government have an estimated number of children for each of these eight classes of exemptions?

Hon SUE ELLERY: No, we do not. Based on Victoria, where similar exemptions have already been implemented, approximately 1.1 per cent of kindergarten enrolments were children eligible for an exemption, of which approximately one-third were on a medical basis. The remaining two-thirds of eligible exempt children, around 0.7 per cent of kindergarten enrolments, met one of its exemptions.

Hon NICK GOIRAN: It does not seem right to me that the government can say that it does not know how many children would form part of these eight categories of exemptions. I take the minister to the first of the exemptions, which is an Aboriginal child, as defined in section 3 of the Children and Community Services Act 2004. Is it seriously the position of the government that it does not know how many Aboriginal children are in Western Australia?

Hon SUE ELLERY: I can certainly get a number from someone about the number of Aboriginal children in Western Australia. I think I can get projections about the number of Aboriginal children expected to be enrolling in kindergarten, so I can give the member an undertaking to get that kind of number.

Progress reported and leave granted to sit again, pursuant to standing orders.