

INFANTS AMENDMENT BILL (No.2) 2019

SAMOA

Explanatory Memorandum

Summary:

In response to the measles outbreak in Samoa in the latter half of 2019, the Government has decided to have their concerns addressed in and by the highest decision making authority of the land - Parliament. This is by amending laws to respond to and contribute to the efforts to combat the infectious disease, with the hope it will not touch the shores of Samoa again.

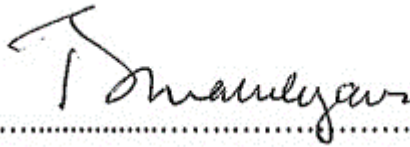
The Infants Amendment Bill (No.2) 2019, places the new policy in a law with the subject matter of the policy - child, and health. It amends the Infants Ordinance 1961, under Part 3, which is entitled, the 'Protection of Children'. To ensure a whole of society approach to, and a holistic implementation of this policy, a number of relevant laws are also amended.

Clauses:

- Clause 1: - short title and commencement. The Act commences on 1 January 2020.
- Clause 2: - inserts section 12A to the Infants Ordinance 1961. It makes it mandatory for parents or carers to ensure their child is vaccinated from birth. Non-compliance attracts a penalty of up to \$5,000.

- Clause 3:** - amends the Education Act 2009. A certified copy of a complete, vaccination and immunisation record of a child from birth, is now a prerequisite for school enrolment. Failure to provide this certified copy of a complete, vaccination and immunisation record of a child from birth, means the child cannot be accepted in a school (primary or secondary). A parent or carer who wilfully or recklessly provides false information in lieu of a certified copy of a complete, vaccination and immunisation record of a child from birth, is liable to a fine up to \$10,000. A Principal who accepts a child for enrolment without the fulfilment of the prerequisite of a certified copy of a complete, vaccination and immunisation record of a child from birth, is liable to a fine up to \$10,000.
- Also, all schools, whether government, church, private or village, early childhood education centres must have vaccination policies that complies with the Ministry of Health requirements. For those schools which have registered under the Education Act 2009 before the commencement of this Act, they have six (6) months to produce a policy. Failure to do so, may be a ground for de-registration.
- Clause 4:** - amends the Village Fono Act 1990 for the Village Council to develop health related policies, including vaccination and immunisation policies.
- Clause 5:** - amends the Internal Affairs Act 1995 to include the following. As of 1 January 2020, it will be the duty of the Sui o le Nu'u or Sui o le Malo, to require the vaccination and immunisation of children born in respect of his village, pursuant to the requirements of the Ministry of Health, and to develop a system to monitor and ensure this is carried out.

Clause 6: - amends the Ministry of Women Affairs Act 1990, to include as a duty of the Sui Tamaitai o le Nuu, to, as of 1 January 2020, require the vaccination and immunisation of children born in respect of the members of her village, pursuant to the requirements of the Ministry of Health, and to develop a system to monitor and ensure this is carried out.



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(Hon TUILAEPA Auelua Fatialofa Lupesoliai Lolofietele
Neioti Aiono Galumalemana Dr. Sailele Malielegaoi)

PRIME MINISTER

INFANTS AMENDMENT BILL (No.2) 2019

SAMOA

Arrangement of Provisions

1. Short title and commencement
2. New section 12A inserted
3. Education Act 2009 amended
4. Village Fono Act 1990 amended
5. Internal Affairs Act 1995 amended
6. Ministry of Women Affairs Act 1990 amended

2019, No.

A BILL INTITULED

AN ACT to amend the Infants Ordinance 1961 (Principal Ordinance) and other laws in response to the measles outbreak in Samoa 2019.

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short title and commencement:

- (1) This Act may be cited as the Infants Amendment Act (No.2) 2019.
- (2) This Act commences on 1 January 2020.

2. New section 12A inserted:

In the Principal Ordinance, insert the following after section 12:

“12A. Protection of health of children:

- (1) A parent or a person having the custody of a child must comply with the vaccination and immunisation requirements of the Ministry of Health in respect of the child, including but not limited to vaccination and immunisation requirements for infectious diseases such as measles, mumps and rubella.
- (2) Subsection (1) supports the protection of children from ‘infectious diseases’ as defined in section 2 of the Health Ordinance 1961 and listed in Schedule 1 of that Ordinance.
- (3) A parent or a person who fails to comply with subsection (1) without lawful or reasonable excuse to the satisfaction of the Chief Executive Officer of the Ministry of Health commits an offence and is liable to a fine not exceeding 50 penalty units or to imprisonment not exceeding one (1) year.”.

3. Education Act 2009 amended:

The Education Act 2009 is amended as follows:

- (a) substitute section 4 with the following:

“4. Enrolment:

- (1) Subject to subsection (6) a carer of a compulsory school-aged child must enrol the child as a student in a school appropriate to the child’s educational needs.
- (2) In any legal proceeding the carer bears the onus of proving that the child is enrolled at a school in accordance with this Act.
- (3) If a child’s 4th birthday falls prior to or on 1 June in a given school year, the child must be enrolled to commence school at the start of that school year.
- (4) If a child’s 4th birthday falls after 1 June in a given school year, the child must be enrolled to commence school at the start of the following school year.
- (5) Subject to section 5, a child must remain enrolled at a school until the child completes the work of Year 13 of school or attains the age of 16 years, whichever occurs sooner.
- (6) A carer unable to afford to enrol his or her child in a village school or Ministry school because of financial constraints shall apply to waive the child’s school fees under section 53.
- (7) A person who contravenes a provision of this section commits an offence and is liable to a fine not exceeding 100 penalty units.

4A. Prerequisites for enrolment:

- (1) A child is enrolled as a student at a school following his or her acceptance by the Principal and upon the entering of the child’s name on the school roll.

- (2) An application for the enrolment of a child as a student at a school must include the following:
 - (a) the child's identity;
 - (b) the child's age;
 - (c) in compliance with the Ministry of Health requirements, a certified copy of the child's complete vaccination and immunisation record from birth, including but not limited to a vaccination and immunisation record in relation to measles, mumps and rubella from birth;
 - (d) the child's place of residence;
 - (e) the identity of the person who is enrolling the child; and
 - (f) any other information or matter as the Chief Executive Officer requires, in respect of enrolment at a school.
- (3) Section 4(2)(a) to (e) are prerequisites for an acceptance by the Principal and the entering of the child's name on the school roll in subsection (1).
- (4) A carer or a person who wilfully or recklessly provides false information in response to section 4A(2)(c) commits an offence and is liable to a fine not exceeding 100 penalty units.
- (5) A Principal who accepts a child for enrolment without the fulfilment of the prerequisite in section 4(2)(c) commits an offence and is liable to a fine not exceeding 100 penalty units.
- (6) The Chief Executive Officer may specify a form of application for enrolment under this section to be used in Ministry schools and village schools."; and

(b) after section 22 insert the following:

“22A. Immunisation and vaccination policy:

A school and an early childhood education centre must have a vaccination and immunisation policy made pursuant to the vaccination requirements of the Ministry of Health.”; and

(c) in section 31(1)(b), insert the following between “pastoral care,” and “and a discipline policy”:

“relevant health policies, including but not limited to a measles, mumps and rubella vaccination and immunisation policy under section 22A, pursuant to the requirements of the Ministry of Health”; and

(d) after section 39(3)(b) -

(i) insert “(c) provides relevant health policies, including but not limited to a measles, mumps and rubella vaccination and immunisation policy, pursuant to the requirements of the Ministry of Health;”; and

(ii) restructure the paragraphs accordingly; and

(e) after section 46(2)(c) -

(i) insert “(d) provides relevant health policies, including but not limited to a measles, mumps and rubella vaccination and immunisation policy, pursuant to the requirements of the Ministry of Health;”; and

(ii) restructure the paragraphs accordingly; and

(f) after section 68(b) -

(i) insert “(c) the provision of relevant health policies, including but not limited to a measles, mumps and rubella vaccination and immunisation policy, pursuant to the requirements of the Ministry of Health;”; and

(ii) restructure the paragraphs accordingly; and

(g) after section 76, insert:

“77. Time for compliance with the provision of health policies:

- (1) All schools registered under this Act before 1 January 2020 must have their relevant health policies, including but not limited to a measles, mumps and rubella vaccination and immunisation policy in place, by 30 June 2020.
- (2) Failure by a school to meet the requirements of subsection (1) may be a ground for the de-registration of that school.”.

4. Village Fono Act 1990 amended:

Section 5 of the Village Fono Act 1990 is amended as follows:

- (i) after section 5(2)(a), insert “(b) and health policies including but not limited to a vaccination and immunisation policy, pursuant to the requirements of the Ministry of Health;”; and
- (ii) restructure the paragraphs accordingly.

5. Internal Affairs Act 1995 amended:

After section 15(1)(d):

- (a) insert “(e) as of 1 January 2020, to require the vaccination and immunisation of children born in respect of the members of his village, pursuant to the requirements of the Ministry of Health, and develop a system to monitor and ensure this is carried out;”; and
- (b) restructure the paragraphs accordingly.

6. Ministry of Women Affairs Act 1990 amended:

After section 16B(d), insert the following:

- (a) insert “(e) as of 1 January 2020, to require the vaccination and immunisation of children born in respect of the members of her village, pursuant to the requirements of the Ministry of Health, and develop a system to monitor and ensure this is carried out;” and
 - (b) restructure the paragraphs accordingly.
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