

Australian Capital Territory

Public Health (Reporting of Notifiable Conditions) Code of Practice 2026 (No 1)

Disallowable instrument DI2026–67

made under the

Public Health Act 1997, s 133 (Codes of Practice)

EXPLANATORY STATEMENT

The *Public Health Act 1997* (PH Act), Part 6 (Notifiable conditions and public health hazards) provides the legislative framework for monitoring and investigating notifiable conditions. This enables timely public health action to reduce notified conditions' impact on the community.

Sections 102 through to 105 in Division 6.2 of the PH Act require certain individuals including doctors, nurse practitioners, pathologists, persons in charge of hospitals and other responsible people to inform the Chief Health Officer if they have reasonable grounds to believe that a patient has, or may have, a notifiable condition.

A notification under the PH Act must be made in accordance with the applicable code of practice. This instrument revokes the Public Health (Reporting of Notifiable Conditions) Code of Practice 2022 (No 2). In its place, the Public Health (Reporting of Notifiable Conditions) Code of Practice 2026 (No 1) adds hantavirus to the list of notifiable condition, amends the previous listing for 'monkeypox' to be 'mpox' and removes yersiniosis as a notifiable condition.

Following a May 2026 outbreak of hantavirus on the *MV Hondius* cruise ship, the World Health Organization (WHO) commenced an internationally coordinated public health response.

The inclusion of hantavirus on the list of notifiable conditions for the ACT is a precautionary and proportionate response to the outbreak. While the likelihood of a large outbreak is very low, the listing is necessary to protect public health due to the high mortality rate associated with hantavirus. It will allow the ACT to put in place appropriate public health measures and respond to any public health concerns in the event of hantavirus cases.

The term 'mpox' reflects WHO terminology and aligns with the Commonwealth Department of Health, Disability and Ageing's *Series of National Guidelines*.

Yersiniosis is a sporadic, self-limiting gastrointestinal disease with limited requirement for public health intervention in most cases. Given the low incidence in the ACT, the absence of specific public health measures for individual cases, and the availability of other mechanisms for detecting foodborne disease outbreaks, continued routine notification of yersiniosis in the ACT is unlikely to contribute meaningfully to public health protection or surveillance outcomes.

Part 3 of the code of practice details notification requirements. These have been updated to reflect administrative changes.

Human rights considerations

During the development of the Code, due regard was given to its compatibility with the *Human Rights Act 2004* (HR Act).

The Code is considered to engage the following HR Act rights:

- Section 9 – Right to life
- Section 12 – Right to privacy

Right to life

The right to life is concerned with preventing the arbitrary deprivation of life and is directly engaged in the delivery of preventive health programs and medical treatment. Public authorities have a positive obligation to take reasonable steps to safeguard life, including quality of life, in response to known public health risks such as transmissible diseases.

This instrument supports the right to life by enabling health authorities to access critical disease information to reduce transmission and mitigate impacts through public health interventions such as surveillance, communication strategies, and if necessary, public health directions. Notification data is essential for monitoring the burden of disease, determining risk factors and safeguarding population health. Hantavirus infection is a serious condition that can result in significant illness or death. The inclusion of ‘hantavirus’ as a notifiable condition under this instrument is considered a necessary and proportionate measure to support public health efforts to detect, monitor, and reduce transmission, thereby contributing to the protection of life.

Right to privacy

The right to privacy is engaged where personal information, including sensitive health information, is collected, used, or disclosed. Notifiable condition schemes necessarily engage the right to privacy through the mandatory reporting of an individual’s health information to public authorities without consent.

Including ‘hantavirus’ as a notifiable condition engages and limits the right to privacy. Consistent with section 28 of the HR Act, the limitation on privacy is considered reasonable and demonstrably justified, and to be in pursuit of a legitimate purpose, namely to support critical health protection activities. The extent of this limitation is confined to the collection and use of information necessary for such

activities. Collected information continues to be subject to protections regarding handling, storage and disclosure.

There is a clear and rational connection between any engaged right to privacy regarding notifiable conditions and the ability of health authorities to conduct health activities in response to notifiable conditions.

There are no other less restrictive means available to government for obtaining notifiable condition information due to the statutory protections on health information provided by the *Health Records (Privacy and Access) Act 1997*. The privacy impacts of listing ‘hantavirus’ as a notifiable condition are therefore considered necessary and reasonable to support critical public health measures.