

Australian Capital Territory

# Blood Donation (Transmittable Diseases) Blood Donor Form 2026 (No 1)

**Disallowable instrument DI2026–84**

**Approved form AF2026–73**

made under the

**Blood Donation (Transmittable Diseases) Act 1985, s 10(3) Approved Forms**

## EXPLANATORY STATEMENT

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### OVERVIEW

The Disallowable Instrument and Approved Form (together ‘the Instrument’) have been prepared in accordance with section 10(3) of the *Blood Donation (Transmittable Diseases) Act 1985* (the Act).

On commencement the Instrument revokes the Disallowable Instrument DI2025-320 and Approved Form AF2025-27 notified on the ACT Legislation Register dated 22 December 2025.

Section 5 of the Act specifies prescribed requirements in relation to the taking of blood, which trigger the application of the protections from liability at sections 3 and 4 of the Act. At section 5(a) these requirements include that before taking blood from the donor, the society gets from the donor a written declaration.

Under section 10 of the Act the Minister may approve a form for a particular purpose under the Act, such as for section 5(a), and where a form is approved, only that form is to be used for that purpose. Consistently with section 10(3) of the Act, as the form approved by the Minister relates to section 5(a) of the Act, it is a Disallowable Instrument.

The Instrument approves a revised declaration for the purposes of section 5(a). The revised declaration reflects changes made to the Blood Donor Questionnaire and Declaration Form by the Australian Red Cross Lifeblood (a part of the Society, and formerly known as the Australian Red Cross Blood Service) which are intended to ensure that the questions are appropriate for the safety of donors and recipients and that donors are not excluded unnecessarily.

The substantive change to the new Blood Donor Questionnaire and Declaration Form, which has the approval of the Therapeutic Goods Administration (TGA), relates to changes to malaria assessment and testing. Blood Donors who have visited a malaria

affected country in the past three years have been restricted from donating fresh blood components for 120 days after leaving the risk area and malarial testing is applied on the subsequent donation.

The malarial assessment changes will mean that even though donors who have visited a malaria affected area in the previous four months will still be restricted from donating fresh blood components for 120 days from the date of leaving the risk area, following this period of restriction, donors will be accepted for all donation types, with no requirement for follow up malaria antibody testing.

Donors with longer term continuous periods of time of 6 months or more in a malaria affected country will continue to be managed with follow up malarial testing following the 120 day deferral period to fully assess the malarial risk status of the donation.

The form may be completed electronically or in a hard copy, printed format.

It is an offence under Part 3.4 of the Criminal Code to make a false or misleading statement, or to give false or misleading information. Accordingly, a donor that completes the Blood Donor Declaration Form and in doing so knowingly or recklessly provides false, misleading or incorrect information, or that omits information the absence of which makes the information false or misleading, is likely to have committed an offence.

The Instrument will commence on 26 July 2026 to align with the national implementation of the use of the revised Blood Donor Questionnaire and Declaration Form by Australian Red Cross Lifeblood as part of the Society.

## **CONSISTENCY WITH HUMAN RIGHTS**

The Instrument engages the following sections of the *Human Rights Act 2004* (Human Rights Act):

- Section 12 – Right to privacy (*limited*)

The Instrument limits the right to privacy under section 12 of the Human Rights Act as it approves a form requiring the collection, storage and use of personal information for a person to become a blood donor. The collection of this information serves the legitimate purposes of, and is rationally connected to, ensuring blood donations are safe and suitable, as well as promoting sustainable blood supply.

The right to privacy is only limited by the Instrument to the extent necessary to achieve the legitimate purposes of enabling safe blood donation and promoting sustainable blood supply. The information collected is limited to what is necessary to determine a person's eligibility to donate blood, ensure the safety of both donors and recipients, to contact the donor for future donations, and assist with research including improving the safety of transfusion and donation; as outlined in the form. For example, by only requiring the disclosure of travel to malaria affected areas in the previous four months, the Instrument ensures only relevant information is collected for the purposes of safe blood donation.

Further, the donation of blood is on an entirely voluntary basis, and a person's private information is only shared by that person if they choose to donate blood. The information shared must also be handled in accordance with protections under the *Privacy Act 1988 (Cth)* and *Health Records (Privacy and Access) Act 1997*, which provides a range of further protections to ensure the privacy of blood donors is protected. For these reasons the limitation on privacy is reasonable and proportionate to achieving the purposes of a safe and sustainable blood supply.