

EXPLANATORY STATEMENT

National Health Security Act 2007

National Health Security (National Notifiable Disease List) Amendment Instrument 2016 (No. 1)

Authority

Subsection 11(1) of the *National Health Security Act 2007* (the Act) provides that the Minister must, by legislative instrument, establish a list of diseases, to be called the National Notifiable Disease List (NNDL). Subsection 11(3) provides that the Minister may vary the NNDL by adding or removing a disease in certain circumstances.

Purpose

The *National Health Security (National Notifiable Disease List) Amendment Instrument 2016 (No. 1)* makes three variations to the NNDL:

1. Removal of Acquired immune deficiency syndrome (otherwise known as AIDS) from the NNDL

AIDS is a notifiable disease in Australia, as is human immunodeficiency virus (HIV), the virus that causes AIDS. The objective of national public health surveillance under the *National Health Security Act 2007* is to monitor diseases that are considered a public health risk to enable the detection and response to outbreaks associated with the disease.

It is proposed to remove AIDS from the NNDL because since the introduction of antiretroviral therapy (ART) for HIV infections, AIDS notifications have decreased substantially and AIDS surveillance is no longer a reliable measure of the HIV epidemic.

The national case definition for a confirmed AIDS case requires a definitive diagnosis of HIV infection and diagnosis of at least one of the 25 AIDS defining clinical conditions. Notification of AIDS, made after the initial HIV diagnosis, is a clinical diagnosis relying on doctor report only. Therefore, it is HIV that constitutes the key public health risk marker, with the transition to AIDS being more reflective of clinical and treatment importance.

The proposal to remove AIDS does not mean that the condition is no longer important or that there should be changes in public messaging around HIV and AIDS. Rather, the change in focus should indicate the public health importance of monitoring HIV infections and the clinical and immunological status of cases at their first HIV diagnosis. The removal of AIDS as a notifiable disease will improve public health capacity to enable more complete reporting and analysis on HIV diagnoses, which is a much better indicator of the burden of the HIV/AIDS epidemic.

2. Listing of rotavirus on the NNDL

Rotavirus is the leading cause of severe gastroenteritis in infants and young children. It is preventable through routine childhood vaccination and evidence indicates there are significantly higher rates of rotavirus in Indigenous populations compared with non-Indigenous. The Commonwealth has made a significant financial investment in addressing rotavirus through the National Immunisation Program (NIP).

A Joint Criteria Assessment Group (JCAG) was formed to assess whether rotavirus should be made nationally notifiable and considered the public health priority of rotavirus to be high. The group advised that national surveillance of rotavirus is needed to monitor and evaluate the effectiveness of the NIP and provide information about changes in the epidemiology of rotavirus since the introduction of the vaccines in 2007, and trends in notifications over time.

Making rotavirus nationally notifiable is a clear statement of intent about the public health priority of the disease. For some states and territories, the adding of rotavirus to the NNDL may facilitate the process of making the disease notifiable in that jurisdiction.

3. Change of name for a disease listed on the NNDL from ‘Kunjin virus infection’ to ‘West Nile virus/Kunjin virus infection’

The NNDL currently lists Kunjin virus infection as being a notifiable vector borne disease. This naming appears (without consideration of the case definition) to preclude the notification of West Nile virus infections other than the Kunjin strain.

The Australian national surveillance case definition was renamed to West Nile virus/Kunjin virus infection and allows for notification of confirmed infections with any strain of West Nile virus infection. The National Notifiable Disease Surveillance System already contains notifications for West Nile infection that are not the Kunjin strain.

It is recommended that the name ‘Kunjin virus infection’ listed on the NNDL is changed to ‘West Nile virus/Kunjin virus infection’.

Consultation

Subsection 11(5) of the Act provides that the Minister must consult with the Commonwealth Chief Medical Officer and each State or Territory Health Minister in making or varying the NNDL. Those consultations have been undertaken.

This instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

The instrument will take effect on the day after it is registered on the Federal Register of Legislation.

Authority: Subsection 11(3) of the *National Health Security Act 2007*

Details of the Instrument

1 Name of Instrument

This section states that the name of the amending instrument is the *National Health Security (National Notifiable Disease List) Amendment Instrument 2016 (No. 1)*.

2 Commencement

This section states that the amendments commence the day after the instrument is registered.

3 Authority

This section states that the instrument is made under subsection 11(3) of the *National Health Security Act 2007*.

4 Schedule 1 - Amendments

This section provides for the amendment of the instrument as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

Schedule 1 repeals Division 2.5 of Schedule 1 (table items 2.5.9 to 2.5.14) of the *National Health Security (National Notifiable Disease List) Instrument 2008* and substitutes it with the new Division 2.5 of Schedule 1 (table items 2.5.9 to 2.5.15), which includes the disease Rotavirus.

Schedule 1 amends the name to a disease contained in Division 2.6 of Schedule 1 (table item 2.6.6) of the *National Health Security (National Notifiable Disease List) Instrument 2008* from “Kunjin virus infection”, to “West Nile virus/Kunjin virus infection”.

Schedule 1 repeals Division 2.9 of Schedule 1 (table item 2.9.4) of the *National Health Security (National Notifiable Disease List) Instrument 2008*, which removes the disease AIDS.

Schedule 1 also amends the name of the department in Division 2.9 (heading and note) of the *National Health Security (National Notifiable Disease List) Instrument 2008* from “Department of Health and Ageing” to “Department of Health”.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

National Health Security (National Notifiable Disease List) Amendment Instrument 2016 (No. 1)

The *National Health Security (National Notifiable Disease List) Amendment Instrument 2016 (No. 1)* (the Amending Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Amending Instrument

The Amending Instrument amends the *National Health Security (National Notifiable Disease List) Instrument 2008* (the Principle Instrument) to improve the national surveillance of two diseases and remove one disease.

There are three amendments. The first amendment adds the disease rotavirus to the Principle Instrument, making this disease nationally notifiable. This will make a clear statement of intent about the public health priority of the disease.

The second amendment changes the name of a disease currently listed in the Principle Instrument from “Kunjin virus infection”, to “West Nile virus/Kunjin virus infection”. The NNDL currently lists Kunjin virus infection as being a notifiable vector borne disease. This naming appears (without consideration of the case definition) to preclude the notification of West Nile virus infections other than the Kunjin strain.

The Australian national surveillance case definition was renamed to West Nile virus/Kunjin virus infection and allows for notification of confirmed infections with any strain of West Nile virus infection.

The third amendment removes AIDS from the Principal Instrument because since the introduction of antiretroviral therapy (ART) for HIV infections, AIDS notifications have decreased substantially and AIDS surveillance is no longer a reliable measure of the HIV epidemic. The removal of AIDS as a notifiable disease will improve public health capacity to enable more complete reporting and analysis on HIV diagnoses, which is a much better indicator of the burden of the HIV/AIDS epidemic.

These amendments do not make any substantive changes to the law.

Human rights implications

The Amending Instrument does not engage any of the applicable rights or freedoms.

Conclusion

The Amending Instrument is compatible with human rights as it does not raise any human rights issues.

The Hon Sussan Ley MP

Minister for Health