



Australian Government

Department of Health and Ageing  
Therapeutic Goods Administration

# Access to unapproved therapeutic goods

Authorised prescribers

October 2004

**TGA** Health Safety  
Regulation



## About the Therapeutic Goods Administration (TGA)

- The TGA is a division of the Australian Government Department of Health and Ageing, and is responsible for regulating medicines and medical devices.
- TGA administers the *Therapeutic Goods Act 1989* (the Act), applying a risk management approach designed to ensure therapeutic goods supplied in Australia meet acceptable standards of quality, safety and efficacy (performance), when necessary.
- The work of the TGA is based on applying scientific and clinical expertise to decision-making, to ensure that the benefits to consumers outweigh any risks associated with the use of medicines and medical devices.
- The TGA relies on the public, healthcare professionals and industry to report problems with medicines or medical devices. TGA investigates reports received by it to determine any necessary regulatory action.
- To report a problem with a medicine or medical device, please see the information on the TGA website.

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## These guidelines

- This document updates *Access to Unapproved Therapeutic Goods – Authorised Prescribers May 2001*

The changes to this document accommodate the introduction of Australia's new regulatory system for medical devices in October 2002. The changes to Australia's regulatory system for medical devices have been effected through amendment of the *Therapeutic Goods Act 1989* (the Act) and the *Therapeutic Goods Regulations 1990* (the Regulations), and through the creation of a separate set of regulations specifically for medical devices - *Therapeutic Goods (Medical Devices) Regulations 2002* (the Medical Device Regulations).

The range of mechanisms for access to unapproved therapeutic goods remains the same following the implementation of the new medical device regulatory system, and the operation of the Authorised Prescriber mechanism is unchanged.

NOTE: The Act has been substantially restructured and is now divided into 'chapters', rather than 'parts'. The requirement for products to be entered into the ARTG has been retained. However, whereas in the past all therapeutic goods were treated the same in terms of ARTG registration or listing requirements (previously Part 3 of the Act) and manufacturing requirements (previously Part 4 of the Act), there are now separate chapters dealing with medicines (chapter 3) and medical devices (chapter 4). These chapters contain quite distinct differences in the approach to the inclusion of these products on the ARTG. Chapter 3 also captures a third set of goods, which are now known as 'other therapeutic goods' (OTGs). These are goods previously regulated as devices but which no longer satisfy the revised definition of a medical device. These products include tampons and household and hospital grade disinfectants.

Medicines and 'other therapeutic goods' continue to be regulated as either 'registrable' or 'listable' goods, with the same TGA pre-market evaluation and manufacturer licensing requirements and procedures as previously (Sections 25, 26, 35 and 36 of the Act). The particular requirements for medical devices and the administrative processes and enforcement procedures principally aimed at ensuring those requirements are met are outlined in Chapter 4.

At the time of introduction of the new regulatory system for devices, the legislation was framed such that, pursuant to s15A, existing mechanisms for access to unapproved medical devices provided under sections 18 and 19 of the Act continued to be operational for a period of 2 years. From October 2004, all mechanisms of access to unapproved medical devices will operate through the provisions set out in Chapter 4.

Importantly, the new regulatory framework for medical devices excludes *in-vitro* diagnostic devices (IVDs), devices of human origin and devices containing viable cells or tissue of animal origin. Although these products fit the definition of a medical device, they have been excluded because the Australian Government is committed to developing new regulatory frameworks for them. In the interim period these products will be regulated as per the previous system, as 'other therapeutic goods'.

- This publication describes how medical practitioners can obtain approval as an 'Authorised Prescriber' for the purpose of supplying an unapproved therapeutic good (medicine, 'other therapeutic goods' or medical device) under Section 19(5) and Section 41HC of the *Therapeutic Goods Act, 1989*, and their obligations arising from such authorisations.

- These guidelines are one in a series of documents developed by the Therapeutic Goods Administration (TGA) about the mechanisms to obtain access to unapproved therapeutic goods in Australia. The publications in this series include:
  - *Access to Unapproved Therapeutic Goods - Authorised Prescribers* (this publication);
  - *Access to Unapproved Therapeutic Goods - Clinical Trials in Australia*;
  - *Access to Unapproved Therapeutic Goods via the Special Access Scheme*; and
  - *Access to Unapproved Therapeutic Goods via Personal Importation*.

The TGA has also developed a publication *Access to Unapproved Therapeutic Goods in Australia* which is a consolidation of all the documents in the series. This should be consulted if you are unsure which is the appropriate mechanism to use.

## Abbreviations and Acronyms

ADRAC	Adverse Drug Reactions Advisory Committee
AGRD	Australian Guidelines for the Registration of Drugs
ARTG	Australian Register of Therapeutic Goods
C(PI) Regulations	Customs (Prohibited Imports) Regulations 1956
CTN	Clinical Trial Notification (Scheme)
CTX	Clinical Trial Exemption (Scheme)
DSEB	Drug Safety and Evaluation Branch, TGA
HREC	Human Research Ethics Committee
ICH	International Conference on Harmonisation (of Technical Requirements for Registration of Pharmaceuticals for Human Use)
ODBT	Office of Devices, Blood and Tissues, TGA
OTGs	'other therapeutic goods'
SAS	Special Access Scheme
the Act	<i>Therapeutic Goods Act 1989</i>
TGA	Therapeutic Goods Administration
the Regulations	Therapeutic Goods Regulations 1990
the Medical Devices Regulations	Therapeutic Goods (Medical Devices) Regulations 2002

## INTRODUCTION

The major legislation dealing with the regulation of therapeutic goods in Australia is the *Therapeutic Goods Act 1989* (the Act) and the *Therapeutic Goods Regulations 1990* (the Regulations) and the *Therapeutic Goods (Medical Devices) Regulations 2002* (the Medical Devices Regulations). One important outcome of this legislation is that most therapeutic goods are required to be approved and included on the Australian Register of Therapeutic Goods before they can be supplied unless there is an exemption. The legislation provides a number of mechanisms for exemption which allows access to therapeutic goods that have not been approved and included on the Australian Register of Therapeutic Goods.

### **The Legal Basis for Supply of Unapproved Therapeutic Goods**

The *Therapeutic Goods Act, 1989* and associated regulations establishes a uniform, national system of regulatory controls to ensure the quality, safety, efficacy and timely availability of therapeutic goods for human use. Responsibility for the regulatory controls lies with the Therapeutic Goods Administration (TGA) as the national regulatory authority for therapeutic goods.

Overall control of the supply of therapeutic goods is exerted through three main processes:

- the pre-market evaluation and approval of products intended for supply in Australia;
- the licensing of pharmaceutical manufacturers and certification of device manufacturer quality systems; and
- post market surveillance.

Under the Act, therapeutic goods for human use that are imported, manufactured in Australia, supplied by a corporation, supplied interstate or to the Commonwealth, or exported must be included in the Australian Register of Therapeutic Goods (ARTG) unless specifically exempted by the Act.

Some therapeutic goods are exempted under the Act from the requirement for inclusion in the ARTG before they can be supplied. These exemptions are set out in for medicines and 'other therapeutic goods' (OTGs) in Chapter 3 Section 18 and Section 19 and for medical devices in Chapter 4 Part 4-7. The regulations relevant to these sections are:

- Schedule 5 (Regulation 12(1)), Schedule 5A (Regulation 12(1A)) and Regulation 12A of the Regulations for medicines and OTGs; and
- Regulations 7.1-7.7 and Schedule 4 (Regulation 7.1) of the Medical Devices Regulations for medical devices.

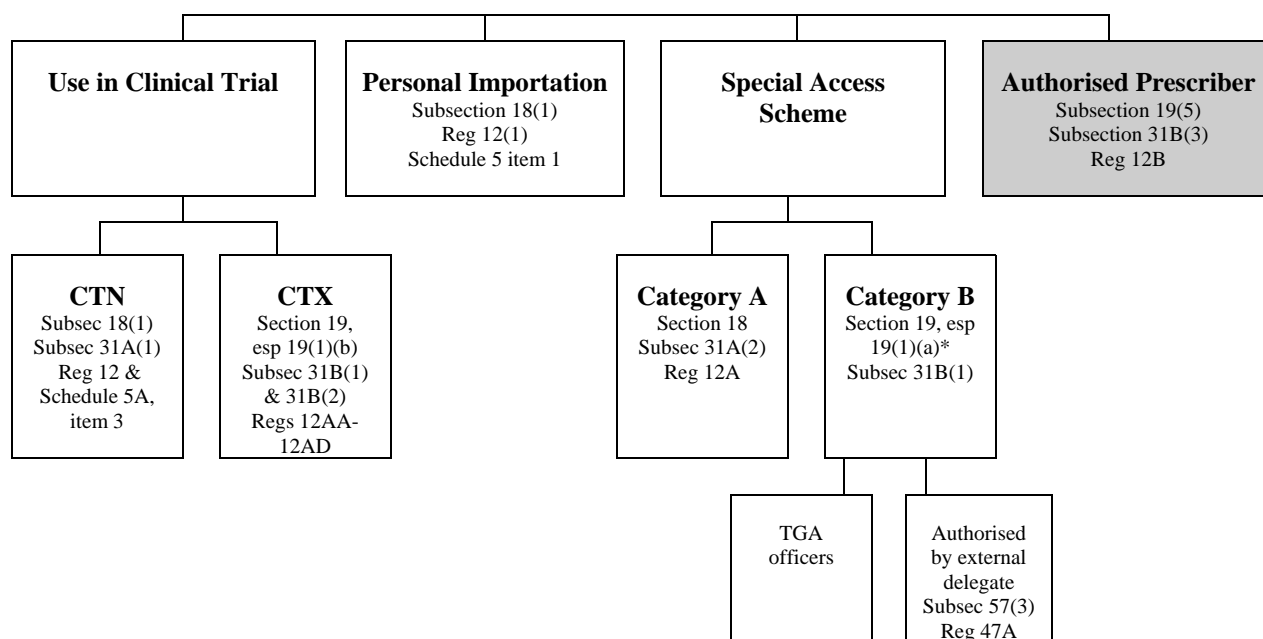
The legislation provides the following mechanisms that allow individuals to gain limited access to therapeutic goods not on the ARTG:

- The Special Access Scheme (categories A and B);
- Clinical Trials (CTN and CTX schemes);
- Authorised Prescribers; and
- Importation for personal use.



The figures below provide a graphic representation of these mechanisms and the sections of the Act and regulations relevant to their operation. The provisions specifically relating to the Special Access Scheme have been shaded.

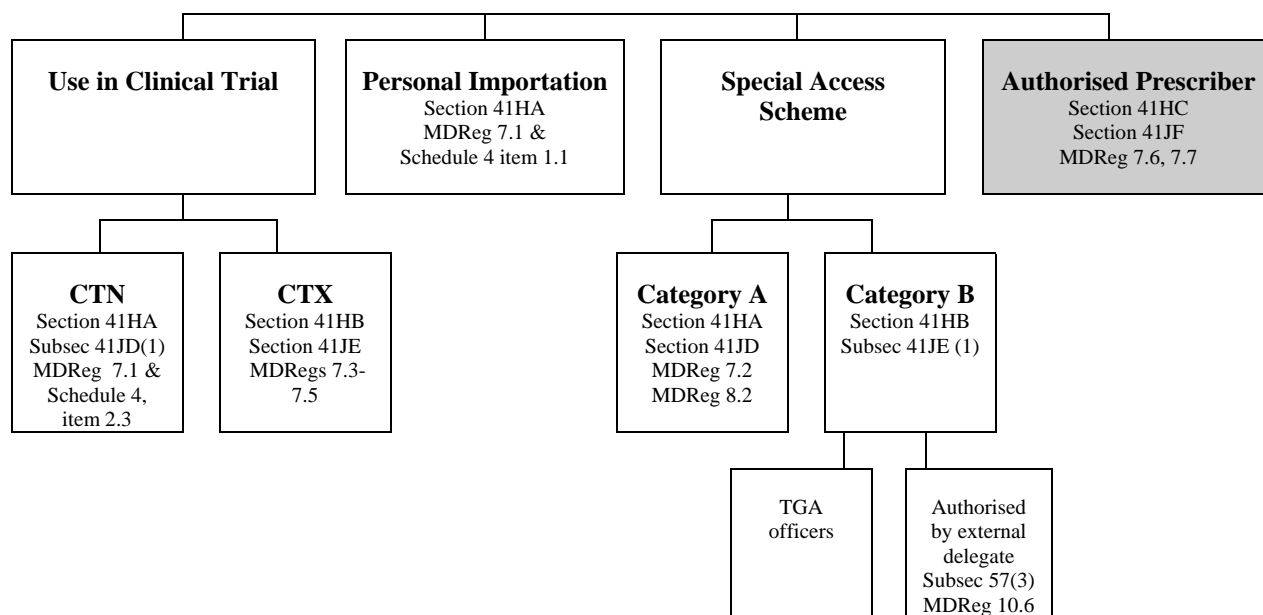
**Figure 1** Access to unapproved medicines and OTGs



\* Section 19 (1)(a) allows supply for Category A and Category B patients but, in practice, category A cases are dealt with under s18 and reg12A.

Reg = Therapeutic Goods Regulations 1990

**Figure 2** Access to unapproved medical devices



MDReg = Therapeutic Goods (Medical Devices) Regulations 2002

A full copy of the legislation can be found on the TGA Website:

<http://www.tga.gov.au/industry/legislation.htm>

Under subsections 19(5)-(9) and Section 41HC of the Act, the **TGA is able to grant certain medical practitioners authority to prescribe a specified unapproved therapeutic good or class of unapproved therapeutic goods to specified recipients or classes of recipients (identified by their medical condition). The medical practitioner becomes an 'Authorised Prescriber' and can prescribe that product for that condition (also known as the 'indication') to individual patients in their immediate care without further approval from the TGA.**

The authorisation extends only so far as to allow the Authorised Prescriber to supply the product directly to specified patients and not to other practitioners who prescribe/administer the product to patients. There is no power under Sections 19(5) or 41HC of the Act to authorise the medical practitioner to supply product to parties other than the specified class of patient.

The basis for providing Section 19(5)/41HC approvals is that the authorised medical practitioner has training and expertise appropriate for the condition being treated and the proposed use of the product and that the Authorised Prescriber is able to best determine the needs of the patient and to monitor the outcome of therapy.

### **Promotion of Unapproved Therapeutic Goods**

The promotion of unapproved therapeutic goods is an offence under subsection 22(6) of Chapter 3 (medicines) and section 41MM of Chapter 4 (medical devices) of the Act and carries a financial penalty. A person must not intentionally or recklessly make a claim, by any means, that the person or another person can arrange the supply of unapproved therapeutic goods.

### **Release of Information**

Information provided to the TGA concerning the use of unapproved therapeutic goods will be treated as confidential within the constraints of Section 61 of the *Therapeutic Goods Act 1989* which prescribes certain circumstances in which information may be released.

The *Freedom of Information Act 1982* (FOI Act) also governs access to information. Section 27 of the FOI Act requires that consultation occur between the TGA and the owner of the information prior to release of that documentation.

In addition, the *Privacy Act 1988* places limits on the disclosure of personal information by parties in possession or control of records. Such parties cannot disclose personal information about an individual to a person, body or agency other than the individual concerned except under certain circumstances. These circumstances include situations where:

- the individual concerned has consented to the disclosure or is reasonably likely to have been aware that information of that kind is usually passed to that person, body or agency;
- the holder of the record has reasonable grounds to believe that disclosure is necessary to prevent or lessen a serious, imminent threat to life or health of the individual concerned;
- the disclosure is required or authorised by or under law; or
- the disclosure is reasonably necessary for the enforcement of criminal law or of a law imposing criminal penalty, or for the protection of the public revenue.

Therefore information supplied to the TGA may be released in circumstances consistent with the Privacy and FOI legislation.

Under the *Therapeutic Goods Act 1989*, the TGA is able to release information concerning the use of unapproved therapeutic goods to State and Territory authorities, which have a need to know. This allows States and Territories to have information to take action on matters under their jurisdiction, such as medical or pharmacy practice. The circumstances under which this may occur include, but are not limited to, the TGA becoming aware that a medical practitioner is using notification mechanisms (eg Category A SAS or the CTN Scheme) inappropriately so as to avoid having to obtain approval from the TGA for supply of an unapproved therapeutic good or where audit of use of unapproved products establishes issues of negligent or unprofessional behaviour.

Doctors and sponsors reporting adverse events associated with use of unapproved products to the TGA should be familiar with and discharge obligations in relation to the collection, use and disclosure of personal information in accordance with the National Privacy Principles based on the Privacy Act 1988. These obligations are set out in the *Guidelines on Privacy in the Private Health Sector, Office of the Federal Privacy Commissioner, November 2001*. The TGA's requirement for applicants to provide information on an identifiable patient does not override these privacy principles and explicit consent to the disclosure of the patient's identity to TGA must be sought.

## **BASIC PRINCIPLES GOVERNING THE SUPPLY OF UNAPPROVED PRODUCTS USING THE AUTHORISED PRESCRIBER MECHANISM**

### **Patient rights**

#### *Right of access*

The Authorised Prescriber provisions of the legislation allows doctors to supply individual patients with unapproved therapeutic goods under a range of circumstances such as:

- access to products which have been withdrawn from the Australian market for commercial or other reasons;
- access to products provided initially to patients through a clinical trial while a marketing application is being considered; and
- access to products available overseas but not marketed in Australia.

The classes of patients who may access unapproved therapeutic goods prescribed by an Authorised Prescriber are those suffering from a life-threatening or otherwise serious illness or condition (Section 19(6) and 41HC of the *Therapeutic Goods Act 1989* and Regulation 12B(2) of the Regulations and Regulation 7.6 of the Medical Devices Regulations).

#### *Informed consent*

It is a condition of the approval to supply an unapproved therapeutic good for use in Australia that the patient or the patient's legal guardian must be in a position to make an informed decision regarding treatment. Informed consent should be in writing unless there are good reasons to the contrary. Informed consent should be freely given and includes an adequate knowledge of the condition and its consequences, an adequate knowledge of the treatment options, the likelihood of recovery and the long-term prognosis. A patient should be specifically informed of the following:

- that the product is not approved (ie registered or listed) in Australia;
- possible benefits of treatment and any risks and side effects that are known;
- the possibility of unknown risks and late side effects; and
- any alternative treatments using approved products which are available.

### **Responsibilities of the Prescriber**

**Unapproved therapeutic goods have undergone little or no evaluation of quality, safety or efficacy by the Therapeutic Goods Administration. Therefore, the responsibility for prescribing an unapproved product rests with the prescriber.**

The prescriber is best able to determine the needs of the patient and to monitor the outcome of therapy. The prescriber has an added responsibility to ensure the patient has given appropriate informed consent prior to treatment. However, an important corollary to the issue of informed consent is that a medical practitioner has the right not to approve the use of an unapproved product if he/she believes there is either insufficient clinical justification or insufficient efficacy and safety data to support the use of the product.

## Responsibilities of the TGA

In considering requests to supply unapproved (non evaluated) therapeutic goods, the TGA has a responsibility to maintain a flexible and efficient means of ensuring individuals are able to gain timely access to important new therapeutic developments without jeopardising the broader community interest in ensuring that products available in Australia are evaluated for quality, safety and efficacy.

In relation to applications from medical practitioners to become Authorised Prescribers, the TGA has a responsibility to determine each application on a case by case basis, taking into account the class of patients for whom treatment is intended, the properties of the product and the expertise of the medical practitioner.

In keeping with its overall charter, the TGA also has a responsibility to encourage at all times the availability of approved (evaluated) products. Thus, the various mechanisms for supply of unapproved products are intended to be **temporary** measures pending general marketing approval of the product. TGA requires that applications to use unapproved products justify adequately why available approved products are not suitable for use. Unfettered access to unapproved products amounts to *de-facto* marketing and would remove any incentive for a sponsor to seek registration of the unapproved product or for other sponsors to seek registration of alternative, similar products.

## Rights and Responsibilities of the Sponsoring Company (Supplier)

A company is under no obligation to supply an unapproved product merely because it has been prescribed by an Authorised Prescriber. Applicants should check with companies that they will agree to supply before making an application and what costs may be involved. The Commonwealth does not subsidise (through the Pharmaceutical Benefits Scheme) the cost of unapproved products.

The sponsor must provide the TGA with six monthly reports detailing the supply of unapproved therapeutic goods to Authorised Prescribers.

If a sponsor anticipates long term supply of their product, they should consider whether to submit a marketing application.

In relation to the supply of products under the Authorised Prescriber mechanism, sponsors have a responsibility to monitor the use of their products continually and record the safety of the medicine and the balance of its benefit and risk. Ideally, the use of an unapproved medicine or medical device should be the subject of treatment protocols issued by the sponsor, with clear requirements for the treating doctor to report any adverse outcomes to the sponsor.

Sponsors of unapproved products are also required to communicate rapidly to the TGA information that has an important bearing on the benefit-risk assessment of the product, particularly any information that may lead changes to the usage of the product by Authorised Prescribers.

## Conditions of Authorisation

When Authorisation is given by the TGA, the Authorised Prescriber will receive a letter of authorisation. This letter includes an attachment which outlines the general conditions upon which any authorisation is granted and, if applicable, a list of conditions specific to that particular authorisation, such as conditions relating to the treatment or monitoring of the specified group of patients, or the use of the specified product. Failure to fulfil these conditions may lead to revocation of the authorisation. A list of general conditions can be found at **Appendix 1**.

The Authorisation is restricted in that:

- it applies only to the specified product;
- the product can only be prescribed for patients in the Authorised Prescriber's immediate care;
- the medical practitioner must continue to have an appropriate ethics committee endorsement in order to supply the unapproved product; and
- the Authorisation can be revoked at any time following notice from the TGA.

## Other

Final responsibility for the use of an unapproved product within an institution always rests with that institution. Medical practitioners working in an institution may also need approval from the institution's Ethics Committee or Drug and Therapeutics Committee prior to using a particular medicine or device. Applicants should discuss the use of the product with the Chief Pharmacist or person fulfilling this role before applying for authorisation.

## **THE TGA'S ATTITUDE TOWARD EXISTING AUTHORISATIONS WHEN ANOTHER PRODUCT IS APPROVED FOR TREATMENT OF THE SPECIFIC CONDITION**

When a product containing the same active ingredient as the unapproved product is evaluated and approved for treatment of the specified indication, the TGA will revoke existing 19(5)/41HC authorisations for the unapproved product. This may also apply, in some cases, to unapproved products with an active ingredient in the same therapeutic class as a approved product. Thus, the following condition of approval, specific to an unapproved medicine, is placed on all Authorisations and is included in the set of conditions that accompany all letters of Authorisation:

The TGA may give notice of revocation of this Authorisation at any time. This approval is valid until revoked or until *[a product with the same active ingredient or in the same therapeutic class]* is approved in Australia, whichever is the earlier.

Similarly, if a medical device that performs the same function as the unapproved medical device is approved for inclusion in the ARTG, the Authorisation for the unapproved medical device will be revoked.

If the Authorised Prescriber wishes to continue to use the unapproved product, he/she will be required to:

- produce sufficient clinical justification as to why the approved product is not suitable for use in the patient group; and
- submit endorsement from an ethics committee for continued use of the unapproved product. The ethics committee's letter of endorsement should demonstrate that the ethics committee has considered the request for endorsement in the light of an evaluated and approved treatment having become available.

This course of action is imposed in part because it is the TGA's responsibility to encourage at all times the availability of approved (evaluated) products. To do otherwise would remove the incentive for a sponsor to seek registration of the unapproved product or for other sponsors to seek registration of alternative products for treatment of the indication. If a medical practitioner has an interest in the continued, long-term supply of a particular product, he/she should ensure that a sponsor is seeking registration of that product in Australia.

## HOW TO BECOME AN AUTHORISED PRESCRIBER

### Who Can Become an Authorised Prescriber?

Regulation 12B of the Regulations and Regulation 7.6 of the Medical Devices Regulations stipulate that in order to be eligible for an Authorisation, a medical practitioner must be:

- a medical practitioner engaged in clinical practice in a hospital and who has been endorsed by the ethics committee of the hospital; or
- a medical practitioner treating patients outside a hospital setting and who has obtained endorsement from an appropriate ethics committee.

The legislation contains provisions for those doctors who do not have access to an ethics committee to obtain endorsement from an appropriate specialist college having expertise relevant to the treatment of the condition for which use of the product is being sought.

### Requesting an Authorisation from TGA - the Overall Approach

Applications should be made in writing and addressed to:

For medicines:

The Medical Advisor  
Experimental Drugs Section  
Drug Safety and Evaluation Branch  
Therapeutic Goods Administration  
PO Box 100  
WODEN ACT 2606  
Phone (02) 6232 8104

For medical devices:

Chief Clinical Advisor  
Office of Devices, Blood and Tissues  
Therapeutic Goods Administration  
PO Box 100  
WODEN ACT 2606  
Phone (02) 6232 8679

Applications need to address criteria relating to the class of recipients, the product and the prescriber. Applicants can also provide any other information they consider important. In considering whether to grant approval, the TGA delegate will generally consider the quality and extent of the information provided and balance the position in relation to each of the criteria. The applicant should address each criterion set out below and supply the information requested. In reaching a decision, the delegate will have regard to each of the criteria and approval will not be given unless the criteria have been met.

### The Criteria Used by Delegates in Deciding Whether to give Authorisation

The major criteria for determining whether approval should be given relate to the class of the patient (recipients), the product and the prescriber.



***Criterion 1 - The recipients***

The application should contain adequate clinical justification for the use of the product, including an outline of the seriousness of the medical condition to be treated. When making an application, the practitioner will need to supply the following information:

<i>Indication</i>	Condition for which the product will be prescribed
<i>Clinical justification</i>	This should include an outline of the seriousness of the condition. If other approved treatments are available, the applicant will need to justify the use of the unapproved product in preference to those treatments. It is important for the justification to balance the availability of approved therapies against the seriousness of the patient's medical condition and to include an appraisal of the expected benefits from the use of the unapproved product.

***Criterion 2 - The product***

The application should indicate how the product is to be used and include an appraisal of the efficacy and safety of the proposed use of the product. The application should include:

<i>Product details</i>	<b>For unapproved medicines</b>
	Active ingredient
	Trade name
	Company/supplier (sponsor)
	Dose form
	<b>For unapproved medical devices</b>
	Name of device
	Company/sponsor
<i>Administration and monitoring regime</i>	Dosage
	Route or method of administration
	Duration of treatment
	Details of the techniques to determine both the efficacy of the treatment and the occurrence and severity of any adverse reaction. This could be provided in terms of clinical, biochemical, haematological and/or immunological monitoring. Monitoring should occur throughout treatment and in some cases it may be appropriate for monitoring to continue for a period thereafter.
<i>Efficacy/safety data</i>	Efficacy (or device performance) and safety data sufficient to support the proposed use of the product. A copy of the reference articles from which the data have been obtained should be included. Such references can range from evidence from published randomised controlled trials through evidence from published non-randomised trials and case reports, to consensus opinion. The level of evidence

required will depend on the seriousness of the condition (see how to balance the criteria, below).

### ***Criterion 3 - The prescriber***

The application should be received from a doctor with qualifications and/or expertise appropriate to the condition being treated and the proposed use of the product. The application should contain:

<i>Prescriber details</i>	<p>Name</p> <p>Postal address</p> <p>Qualifications and details of the medical practitioner's specialty or training and expertise</p> <p>Site(s) at which the product is to be used</p> <p>Phone number</p> <p>Fax number, if available</p>
<i>Ethics Committee endorsement</i>	<p>Evidence of endorsement from an appropriate ethics committee must be submitted, in the form of a letter from the ethics committee giving:</p> <ul style="list-style-type: none"><li>- a clear statement in the letter that endorsement is being given for the purpose of the medical practitioner becoming an Authorised Prescriber;</li><li>- the name of the medical practitioner being endorsed;</li><li>- the product and indication for which endorsement has been given;</li><li>- the site(s) of practice covered by the endorsement;</li><li>- any conditions the ethics committee has imposed on the endorsement; and</li><li>- the signature of the chairman of the ethics committee over his/her official title.</li></ul>
<i>Agreement to Treatment Directions</i>	<p>A completed, signed 'Agreement to Treatment Directions' form must be submitted with the application. A copy of the form is located at <b>Appendix 2</b>. In signing this form the medical practitioner agrees to:</p> <ul style="list-style-type: none"><li>- obtain informed consent from each patient or guardian (see patient rights, above);</li><li>- report any suspected adverse reactions to the TGA; and</li><li>- comply with all relevant State/Territory legislation.</li></ul> <p>Note: It is the Authorised Prescriber's responsibility to check the requirements for supply of any unapproved product with State/Territory authorities.</p>

## How TGA Balances the Criteria

The following is a guide only. It does not cover all possibilities but may give the delegate and others a general guide as to how the complex issues impacting a decision may be balanced.

There is a hierarchy of evidence of efficacy (or performance) and safety of the product, a hierarchy of evidence based on the seriousness of the patient's condition and a hierarchy of qualifications relating to the requesting doctor. There is, thus, a complex interaction of these hierarchies, which will affect the decision to be made.

The product hierarchy effectively differentiates between:

- products which are not approved in Australia but approved in countries with a regulatory standard comparable to that in Australia (ie, USA, UK, Sweden, Canada, The Netherlands for medicines and USA, European Union and Canada for medical devices);
- products which are not approved in Australia but approved in countries other than those with regulatory standards comparable to that in Australia;
- products which are currently under evaluation within TGA;
- products that are not approved anywhere and are still undergoing clinical trials.

These products can be further classified according to the types of evidence available. This can range from

- evidence from published randomised controlled trials [highest level of evidence]
- evidence from published non randomised trials,
- individual case reports,
- consensus opinion of specialist colleges and societies [lowest level of evidence].

The efficacy and safety data submitted in support of the application should be weighed against the seriousness of the condition. As a general rule, the less serious the clinical need, the higher the degree of evidence needed to support the use of the product. For example, a product that has been approved in a country with a regulatory system comparable to our own is likely to be approved for supply under the SAS for a condition for which it has been approved in those countries. On the other hand, if the only evidence available is that from published case reports, it is unlikely that use of the product would be approved for anything but the most serious (almost life-threatening) of conditions. In this case, the prescriber will also have to demonstrate that other conventional therapies are unlikely to control the condition (clinical justification).

With respect to the clinical justification for the use of the unapproved product, the extent to which the application should address the use of available approved therapies will depend on the seriousness of the condition and the amount of information that is known about the product. As a general rule, the less serious the clinical need, the greater the requirement to demonstrate those available therapies are clinically unacceptable.

In circumstances where the product has previously been withdrawn from, or refused entry to, the Australian market because of safety concerns, it will be expected that all conventional therapy has been tried and failed, or has been accompanied by unacceptable adverse

reactions. The clinical justification should address the risk/benefit balance of using the proposed therapy.

The delegate may be aware of information of which the applicant is not, based on general knowledge or previous application eg overseas status of the product. The delegate is responsible for undertaking a limited search for information but the process time of an application will be improved if the applicant supplies all relevant information about the patient and the product to be used in the initial application.

In the event that another product is evaluated by TGA and approved for treatment of an indication, the level of evidence required in support of an application to use an unapproved product instead of the new product for that indication is high. This is particularly so for products with the same active ingredient or with active ingredients in the same therapeutic class.

Medical devices which are only a variation of a previous model or duplicate of the intended performance of an already approved medical device would require a very high level of evidence for approval of an application.

The clinical justification should include discussion as to why the newly approved product is not acceptable for the treatment of the class of patients and this should be based on medical reasons and not on grounds of cost or convenience. This requirement is imposed in part because it is the TGA's responsibility to encourage at all times the availability of approved (fully evaluated) products. To do otherwise would remove the incentive for a sponsor to seek registration of the unapproved product or for other sponsors to seek registration of alternative products for treatment of the indication. If a medical practitioner has an interest in the continued, long-term supply of a particular product, he/she should strongly encourage the sponsor to seek registration of that product in Australia.

## **THE ROLE OF THE ETHICS COMMITTEE**

A medical practitioner cannot become an Authorised Prescriber without endorsement from an ethics committee (except where the practitioner can demonstrate he/she does not have access to an appropriate ethics committee, in which case endorsement from a specialist college is acceptable). The ethics committee is responsible for providing a letter of endorsement to be submitted by the medical practitioner to the TGA as part of the practitioner's application.

### **Information required by the ethics committee when considering endorsement of a medical practitioner as an Authorised Prescriber**

When considering a proposal by a medical practitioner to become an Authorised Prescriber, the ethics committee will need to assess not only the safety of the product in relation to its proposed use, but also the suitability of the medical practitioner. Thus, the ethics committee should review the same types of information as set out on pages 14 - 18 of this document.

In addition, the ethics committee will review information to be given to the patient about the product and the informed consent form. The informed consent form should include the following information:

- that the product is not approved for marketing in Australia;
- benefits of treatment and any risks and side effects that are known;
- the possibility of unknown risks and late side effects; and
- any alternative treatments using approved products which are available.

The ethics committee will need to be satisfied that the consent forms and/or patient information conveys this information adequately.

If the ethics committee is considering an application to supply unapproved products derived from biological tissue including human blood or plasma, it needs to be aware that the TGA can give no guarantee as to the quality, safety or efficacy of these products, particularly as regards any prion or viral inactivation. In this instance, the ethics committee should be aware the TGA will insist that the practitioner use a consent form with wording identical to that used in the form titled 'Consent to Treatment and Indemnity for Use of Products Derived from Biological Tissue Including Human Blood or Plasma' which is located at **Appendix 3**.

### **Conditions may be Imposed on the Endorsement by an Ethics Committee**

The ethics committee may impose any conditions it sees as appropriate on the endorsement. This could include:

- a requirement for an Authorised Prescriber to provide regular reports to the committee containing such information as to outline the number of patients for whom the unapproved product has been prescribed and to demonstrate compliance with the conditions imposed by TGA on the Authorisation; or
- requirements for reporting of any suspected adverse reactions for medicines or serious adverse incidents for medical devices.

An example of an ethics committee letter of endorsement is included in **Appendix 4**.

### **An Ethics Committee can withdraw its Endorsement**

The TGA recommends that an HREC review its endorsement of the Authorised Prescriber if it becomes aware of:

- inappropriate use of the product by the Authorised Prescriber;
- a concern about the safety of the product;
- failure of the Authorised Prescriber to comply with conditions imposed by the HREC; or
- failure of the Authorised Prescriber to comply with State/Territory legislation.

The HREC may become aware of such circumstances as a result of complaints from patients, or from medical or nursing staff at the institution concerned. If, as a result of its reconsideration, the HREC is satisfied that the welfare and /or rights of patients are not or will not be protected, the HREC may withdraw its endorsement. The TGA recommends the HREC first advise the doctor and the institution of which it is a part of its concerns and, with the institution's knowledge and agreement, decide whether to contact the TGA.

Withdrawal of endorsement by the HREC will result in the TGA revoking the Authorisation.

Also, under subsection 31B(3) and Section 41JF of the Act, the TGA has the authority to inquire about the use of unregistered therapeutic goods by Authorised Prescribers. Where necessary, the TGA, under subsection 61(3A), is able to release information about inappropriate use of therapeutic goods to relevant State and Territory authorities.

## **CIRCUMSTANCES UNDER WHICH TGA MAY REVOKE AN AUTHORISATION**

The TGA may give notice of revocation of an Authorisation at any time if:

- the ethics committee responsible for endorsement of the Authorised Prescriber has withdrawn its endorsement;
- the Authorised Prescriber has failed to comply with conditions for Authorisation contained within the letter of authorisation; or
- a product either containing the same active ingredient or in the same therapeutic class as the unapproved product is evaluated and approved for treatment of the specified indication and included on the ARTG (see above);
- the TGA becomes aware of information from other use in Australia or from overseas which indicates major safety concerns with the use of the product.

## HOW TO OBTAIN AN UNAPPROVED MEDICINE OR MEDICAL DEVICE ONCE AUTHORISATION HAS BEEN GRANTED

### Products Available in Australia

If the medicine or medical device is available from a supplier in Australia, it is advised that the Authorised Prescriber contact the supplier (sponsor) to organise supply. Within an institution, the pharmacy department can usually arrange supply of a medicine. Arrangements should be made for delivery to a doctor or pharmacy to allow for labelling and any additional instructions. A prescription is required for dispensing of the product.

The supplier will require authorisation to lawfully release the product. A copy of the letter of Authorisation must be forwarded to the supplier.

### Products not Available in Australia

If the product is not available from an Australian sponsor, the requesting doctor will need to find an overseas source. The product will then need to be imported from that supplier. This can be done by the doctor, a pharmacist, hospital, by the patient or by a licensed importer.

When seeking to arrange importation of a product containing an unapproved medicinal substance, it is important to check whether the drug is controlled under *Customs (Prohibited Import) Regulations 1956* (C(Pi) Regulations). Medicines subject to Customs control cannot be imported without an import permit and/or permission. A copy of the list of controlled medicines is contained on the TGA Website at the following URL:

<http://www.tga.gov.au/consumers/import-export.htm>

These medicines fall into several areas:

- the medicines listed in Schedule 4 and regulated under Regulation 5 of the C(Pi) Regulations.

These include medicines with the potential to cause dependence or which have a propensity for abuse, including narcotics, amphetamines and psychotropic substances. Further advice about procedures for importation should be sought from Treaties and Monitoring Unit, TGA, telephone (02) 6270 4322, fax (02) 6270 4325 or mail PO Box 100 Woden ACT 2606;

- the medicines listed in Schedule 8 and regulated under Regulation 5H of the C(Pi) Regulations.

Anabolic substances are included in this schedule. Further advice can be sought from Experimental Drugs Section, Drug Safety and Evaluation Branch TGA, telephone (02) 6232 8111, fax (02) 6232 8112 or mail PO Box 100 Woden ACT 2606.

- the medicines listed in Schedule 7A and regulated under Regulation 5G of the C(Pi)

## Regulations.

This includes erythropoietin, darbepoietin alfa, growth hormones and gonadotrophins. These medicines cannot be imported for the purpose of medical treatment of athletes or persons associated with an athlete without an import permit. Other persons who are entering Australia as a passenger on a plane or ship and carrying the medicine with them are exempted from the need to obtain an import permit, provided the medicine was prescribed by a medical practitioner and the amount imported is consistent with that prescribed for the person receiving treatment.

Further advice can be sought from the Experimental Drugs Section, Drug Safety and Evaluation Branch TGA, telephone (02) 6232 8111, fax (02) 6232 8112 or mail PO Box 100 Woden ACT.

- antibiotics, which are subject to control under Regulation 5A of the C(PI) Regulations. Further information can be sought from the Treaties and Monitoring Unit, TGA, telephone (02) 6270 4322, fax (02) 6270 4325 or mail PO Box 100 Woden ACT 2606.

The C(PI) Regulations place a number of obligations on importers of controlled medicines. These include the requirement to ensure the medicines are stored securely, records are kept and presented for inspection and to use the medicine solely for medical purposes.

In deciding to grant an import permit for a controlled medicine the delegate at the TGA can request any information reasonably required and the permit can be refused if the information is not provided. It is important to note that the import permit and the approval to supply an unapproved product are separate and both documents may be required to ensure Customs clearance.

Further advice can be sought from Experimental Drugs Section, Drug Safety and Evaluation Branch TGA, telephone (02) 6232 8111, fax (02) 6232 8112 or mail PO Box 100 Woden ACT 2606.



## REPORTING OF ADVERSE OUTCOMES ASSOCIATED WITH THE USE OF UNAPPROVED THERAPEUTIC GOODS

### Definitions

#### *For medicines:*

The ICH definitions of adverse events, adverse reactions, serious adverse reactions and unexpected reactions apply within Australia:

#### Adverse Events (or Adverse Experiences)

Any untoward medical occurrence in a patient or clinical investigation subject administered a pharmaceutical product and which does not necessarily have a causal relationship with this treatment. An adverse event can therefore be any unfavourable and unintended sign, symptom, or disease temporally associated with the use of a medicinal (investigational) product, whether or not related to the medicinal (investigational) product.

#### Adverse drug reaction (ADR)

*For unapproved medicines:* all noxious and unintended responses to a medicinal product related to any dose should be considered adverse drug reactions. The phrase 'responses to a medicinal product' means that a causal relationship between a medicinal product and an adverse event is at least a reasonable possibility, i.e. the relationship cannot be ruled out.

#### Unexpected Adverse Drug Reaction

An adverse reaction, the nature or severity of which is not consistent with the applicable product information (eg., Investigator's Brochure for an unapproved investigational product or Product Information/Package Insert/Summary of Product Characteristics for an approved product).

#### Serious Adverse Event (SAE) or Serious Adverse Drug Reaction (Serious ADR)

Any untoward medical occurrence that at any dose:

- Results in death;
- Is life-threatening;
- Requires in-patient hospitalisation or prolongation of existing hospitalisation;
- Results in persistent or significant disability/incapacity; or
- Is a congenital anomaly/birth defect.

Note: the term 'life-threatening' in the definition of 'serious' refers to an event in which the patient was at risk of death at the time of the event; it does not refer to an event which hypothetically might have caused death if it were more severe.

***For medical devices:***

The definitions applied for the purposes of reporting adverse incidents for medical devices are those defined in *ISO/CD 14155-2.2 January 2000*:

***Adverse Event***

Any undesirable clinical occurrence in a subject whether it is considered to be device related or not, that includes a clinical sign, symptom or condition and/or an observation of an unintended technical performance or performance outcome of the device.

***Adverse Device Event***

A clinical sign, symptom or condition that is causally related to the device implantation procedure, the presence of the device, or the performance of the device system.

***Serious Adverse Event***

Any adverse medical occurrence that:

- Led to a death
- Led to a serious deterioration in health of a patient user or other. This would include:
  - a life threatening illness or injury
  - a permanent impairment of body function or permanent damage to a body structure
  - a condition requiring hospitalisation or increased length of existing hospitalisation
  - a condition requiring unnecessary medical or surgical intervention
  - foetal distress, foetal death or a congenital abnormality/ birth defect
- might have led to death or a serious deterioration in health had suitable action or intervention not taken place. This includes:
  - a malfunction of a device such that it has to be modified or temporarily/permanently taken out of service
  - a factor (a deterioration in characteristics or performance) found on examination of the device.

***Serious Adverse Device Event***

A device related serious adverse event

***Unanticipated Device Related Adverse Event***

Any undesirable clinical occurrence in a subject considered to be device related and not listed in the device technical manuals (or not listed in the appropriate section on the Adverse Event case report form).

## **Responsibilities for Reporting**

The onus for reporting to TGA of adverse drug reactions and adverse device events occurring in the context of the Authorised Prescriber mechanism lies primarily with the treating doctor. It is a condition of approvals that the treating doctor reports the details of any actual or suspected adverse drug reactions and adverse device events to the TGA. The doctor should report all such outcomes within 15 calendar days of first knowledge.

Sponsors of unapproved products may also impose reporting requirements upon treating doctors. As part of the overall development of a medicine or medical device and compilation of a marketing dossier, the sponsor should continually monitor and record the safety of that product and the balance of its benefit and risk during its use. Ideally, the use of an unapproved product should be the subject of treatment protocols that should require the treating doctor to report any adverse drug reactions and adverse device events to the sponsor and the TGA.

Sponsors should report to the TGA all those serious and unexpected adverse drug reactions or serious unanticipated device related adverse events of which they have been informed. Of these, fatal or life-threatening outcomes should be reported to the TGA within 7 calendar days of first knowledge. This should be followed up with a more complete report within 8 additional calendar days. Other serious and unexpected adverse drug reactions and serious unanticipated device related adverse events should be reported within 15 calendar days. If a sponsor thinks these may have already been reported to the TGA, this should be communicated to the TGA.

Sponsors are expected to maintain up to date tabulations and/or line listings of all adverse drug reactions and adverse device events and be able to submit reports to the TGA on request. Sponsors are also required to communicate rapidly to the TGA information that has an important bearing on the benefit-risk assessment of the product or that would be sufficient to consider changes to the situations under which the product should be used.

## **What Should be Reported and How**

The tables and algorithm below summarise the reporting requirements for medicines and medical devices.

***For medicines:***

<b>Reporter</b>	<b>→ Reports what?</b>	<b>→ To whom?</b>	<b>→ In what format?</b>	<b>→ In what timeframe?</b>
Treating doctor	Any adverse drug reaction	TGA	ADRAC blue card <sup>\$</sup>	As promptly as possible, to reach TGA within 15 days
		Sponsor	As required by sponsor	As required by sponsor
		HREC#	As required by HREC	As required by HREC
Sponsor	Serious and unexpected drug reactions	TGA	ADRAC blue card <sup>\$</sup>	For fatal or life-threatening ADRs, send initial report within 7 calendar days of first knowledge. Follow up with complete report within 8 additional calendar days.
				For all other serious and unexpected ADRs, full report no later than 15 calendar days of first knowledge by the sponsor.
	Other adverse drug reactions	TGA	Tabulation	On request by TGA

<sup>\$</sup> Or an appropriate format that contains the same information

<sup>#</sup> If applicable, according to local rules for use of unapproved products within an institution and/or conditions imposed by HREC on its endorsement of the treating doctor

The report should be clearly marked 'Authorised Prescriber ADR' and sent to:

The Medical Adviser  
Experimental Drugs Section  
Drug Safety and Evaluation Branch  
Therapeutic Goods Administration  
PO Box 100  
WODEN ACT 2606

A copy of the ADRAC 'blue card' is located at **Appendix 5**.

*For medical devices:*

Reporter	→ Reports what?	→ To whom?	→ In what format?	→ In what timeframe?
		TGA	Medical Device Incident Report form <sup>\$</sup>	As promptly as possible, to reach TGA within 15 days
Treating doctor	Any adverse device event	Sponsor	As required by sponsor	As required by sponsor
		HREC#	As required by HREC	As required by HREC
Sponsor	Serious unanticipated adverse device related events	TGA	Medical Device Incident Report form <sup>\$</sup>	For fatal or life-threatening adverse device events, send initial report within 7 calendar days of first knowledge. Follow up with complete report within 8 additional calendar days.
				For all other serious unanticipated device events, full report no later than 15 calendar days of first knowledge by the sponsor.
	Other adverse device events	TGA	Tabulation	On request by TGA

<sup>\$</sup> Or an appropriate format that contains the same information

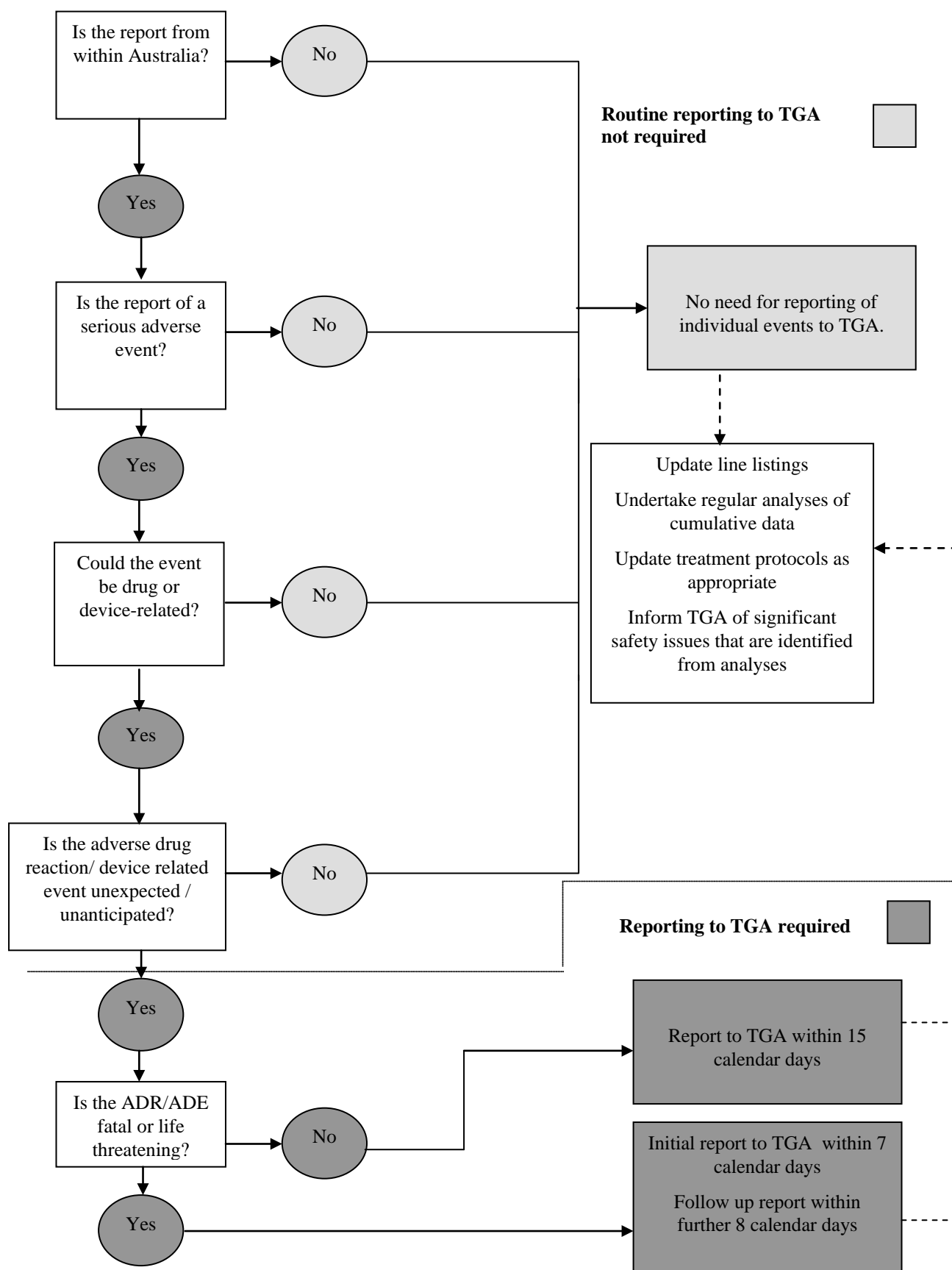
<sup>#</sup> If applicable, according to local rules for use of unapproved products within an institution and/or conditions imposed by HREC on its endorsement of the treating doctor

The report should be clearly marked 'Authorised Prescriber Incident' and sent to:

The Medical Officer  
Office of Devices, Blood and Tissues  
Therapeutic Goods Administration  
PO Box 100  
WODEN ACT 2606

A copy of the 'Medical Device Incident Report' form is located at **Appendix 6**.

## Adverse Event Reporting Algorithm for Sponsors of Products Supplied via Authorised Prescribers



## **WHAT TO DO IF YOUR APPLICATION TO BECOME AN AUTHORISED PRESCRIBER IS REJECTED**

The Therapeutic Goods legislation contains comprehensive mechanisms that allow for appeals of decisions made by Delegates of the Secretary.

Section 60 of the Therapeutic Goods Act sets out those parts of the Act that are appealable to the Minister and the Administrative Appeals Tribunal. In this section it states that some decisions made under Chapter 3 and Chapter 4 of the Act are appealable. This includes decisions relating to clinical trials (both CTN and CTX), the Special Access Scheme and Authorised Prescriber mechanisms.

### **Informal Mechanisms**

There are also informal appeal options available to unsuccessful applicants:

- Before embarking on a formal appeal, applicants are encouraged to contact the delegate to see whether the matter can be resolved informally; or
- A **new** application addressing the reasons for the rejection of an application is always possible and may be sent at any time.

**Note:** If a delegate (within TGA or institutionally based) has refused approval of an application for supply of an unapproved therapeutic good under the SAS arrangements, it is inappropriate for the requesting doctor to approach another delegate (and in effect resubmit the same application) in the hope that a more favourable outcome is obtained.

### **Formal Appeal Mechanisms**

Under the legislation “a person whose interests are affected by an initial decision” can lodge an appeal; the initial decision being the decision of the Delegate of the Secretary. Therefore, a person not directly involved in an application, eg the patient involved in a doctor requesting a SAS approval, may lodge an appeal. As set out in the legislation, a process for making an appeal under Section 60 of the Act is as follows.

A request for a reconsideration of an initial decision must be directed to the Minister.

The appeal should be made in writing within 90 calendar days after the decision first being notified to the requestor (doctor or company) and should be sent to the following address:

The Parliamentary Secretary to the Minister of Health and Ageing  
Parliament House  
Canberra ACT 2600

**The letter should be headed:**

**“APPEAL UNDER SECTION 60 OF THE THERAPEUTIC GOODS ACT 1989.”**

Only one copy of the appeal documents should be sent. A copy of the covering letter (without attachments) may also be sent to the TGA National Manager.

The Parliamentary Secretary may either deal with the appeal personally, or send it to be dealt with by one of the Minister's delegates within the Department.

The TGA will acknowledge the receipt of the appeal letters when they are received from the Minister's office.

In accord with the legislation, every effort will be made to finalise the review of the reconsideration within 60 calendar days of the request. If the appellant has received no response within 60 calendar days of making the request the Minister is taken to have confirmed the initial decision and other avenues of appeal may be pursued.

If a delegate of the Minister is working on the appeal and cannot complete it within 60 calendar days he/she will contact the appellant and negotiate for additional time in which to complete the task. This may be necessary if the delegate wishes to consult with an expert committee (such as Australian Drug Evaluation Committee) or obtain other external expert opinion. Negotiating extra time has no impact on the right of the appellant to appeal to the AAT should they not agree with the decision of the delegate.

The delegate will always provide a written outcome of the reconsideration of the decision. The letter will include the reasons for the delegate's decision.

If not satisfied with the result of the appeal to the Minister, the appellant may apply to the Administrative Appeals Tribunal (AAT) for review of the Minister's/Delegate's decision. The AAT is subject to the *Administrative Appeals Tribunal Act 1975* and it is recommended that this Act be consulted in lodging an appeal. Application to the AAT must be made within 28 days of the receipt of the Minister's/Delegate's decision.

The AAT is separate and independent of both the TGA and the Department of Health and Aged Care and information on lodging appeals and the process of the AAT can be obtained from the AAT in each capital city.

The address for NSW is:

Administrative Appeals Tribunal  
GPO Box 9955  
Sydney NSW 2001

The address for other capital cities can be obtained in the local telephone book.

The AAT may affirm the decision, vary it or set it aside, substitute a new decision, or refer the decision back to the original decision-maker.

## **Decisions under the Customs Act**



The refusal to grant an import permit and/or permission for controlled medicines under the *Customs (Prohibited Imports) Regulations 1956* can also be appealed. Unsuccessful applicants should first contact the delegate but, if not satisfied, can appeal to the Minister in the same way as outlined above.

## **APPENDIX 1**

### **GENERAL CONDITIONS OF AN AUTHORISATION UNDER SUBSECTION 19(5) or SECTION 41HC OF THE THERAPEUTIC GOODS ACT**



**Australian Government**  
**Department of Health and Ageing**  
**Therapeutic Goods Administration**

**GENERAL CONDITIONS OF AN AUTHORISATION  
UNDER SUBSECTION 19(5) OR SECTION 41HC  
OF THE THERAPEUTIC GOODS ACT**

- The product may be prescribed only for patients under the authorised medical practitioner's immediate care.
- The authorised practitioner will obtain informed consent from each patient (or guardian) in relation to the proposed use of the unapproved product, and in this context the patient must be informed that the product is not approved in Australia.
- For unapproved products derived from biological tissue including human blood or plasma, the Authorised Prescriber must obtain the patient's consent in the form approved by the TGA.
- The Authorised Prescriber must continue to have an appropriate endorsement in order to continue to supply the product.

This means that the Authorised Prescriber must be a medical practitioner engaged in clinical practice in a hospital and who has been endorsed by the ethics committee of the hospital or a medical practitioner treating patients outside a hospital setting and who has obtained endorsement from an appropriate ethics committee for the purpose of supply of the product, as required by Regulation 12B(1) of the Medicines Regulations or Regulation 7.6 of the Medical Devices Regulations.

The ethics committee can withdraw its endorsement of an Authorised Prescriber at any time:

- if the committee has concerns about the appropriate use of the product by the Authorised Prescriber;
- if the committee has concern about the safety of the product;
- if the Authorised Prescriber fails to comply with conditions imposed by the committee;
- if the Authorised Prescriber is no longer deemed to come under the jurisdiction of the committee, for example the Authorised Prescriber leaves the institution and takes up an appointment elsewhere, under the jurisdiction of a different ethics committee; or
- if the Authorised Prescriber fails to comply with State/Territory legislation.

Withdrawal of endorsement will result in the TGA revoking the Authorisation.

- The authorised practitioner will comply with all relevant State/Territory legislation.
- The Authorised Prescriber will instruct the patient or patient's agent to return any unused product to the pharmacy on completion of treatment.
- The authorised practitioner will report any suspected adverse drug reaction/device event to the TGA and to the endorsing ethics committee.
- The Therapeutic Goods Administration may give notice of revocation of this authorisation at any time. This authorisation is valid only until revoked or until [a

*product with the same active ingredient or in the same therapeutic class]* is approved in Australia, which ever is the earlier.

## **APPENDIX 2**

### **AGREEMENT TO TREATMENT DIRECTIONS**



**Australian Government**  
**Department of Health and Ageing**  
**Therapeutic Goods Administration**

**AGREEMENT TO TREATMENT DIRECTIONS**  
**AUTHORISATION OF PRESCRIBERS**  
**UNDER SECTION 19(5) OR SECTION 41HC OF**  
**THE THERAPEUTIC GOODS ACT 1989**

Unapproved product to be supplied: \_\_\_\_\_

Route of administration/dosage form: \_\_\_\_\_  
 (medicines only)

Indication / reason for prescribing: \_\_\_\_\_

Supplier's name and address \_\_\_\_\_

Name of endorsing Ethics Committee: \_\_\_\_\_

**I understand that:**

- the product is not approved for marketing in Australia and that the Therapeutic Goods Administration (TGA) is unable to vouch for the quality, safety or efficacy of this unapproved product, and that its use is regarded as experimental;
- the giving of an authority under subsection 19(5) or section 41HC does not render the Commonwealth, the Secretary or a delegate of the Secretary liable to a person in respect of loss, damage, or injury of any kind suffered by the person as a result of, or arising out of the use of, therapeutic goods by that person or another person;
- the product may be prescribed only for patients in an Authorised Prescriber's immediate care; and
- an Authorised Prescriber must continue to have an appropriate endorsement in order to supply the product.

This means that the Authorised Prescriber must be a medical practitioner engaged in clinical practice in a hospital and who has been given approval by the ethics committee of the hospital to supply the unapproved product, or a medical practitioner treating patients outside a hospital setting and who does not have access to an ethics committee that could approve the supply and has obtained endorsement from a specialist college that has an established expertise relevant to the use of the unapproved product.

- the Therapeutic Goods Administration may give notice of revocation of this authorisation at any time and that any authorisation would be valid only until revoked or until the specified product or a similar product is approved in Australia, which ever is the earlier.

**I agree to:**

- obtain from each patient (or guardian) informed consent in relation to the proposed use of the unapproved product, and in this context, inform the patient that the product is not approved in Australia;
- report any suspected adverse reactions to the TGA, the sponsor and the endorsing Ethics Committee; and
- comply with all relevant State/Territory legislation.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Medical Practitioner's name and address : \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**APPENDIX 3**

**AUTHORISATION OF SUPPLY UNDER s19(5)/41HC  
THERAPEUTIC GOODS ACT 1989**

**CONSENT TO TREATMENT AND INDEMNITY FOR USE OF PRODUCTS  
DERIVED FROM BIOLOGICAL TISSUE INCLUDING HUMAN BLOOD OR  
PLASMA**



**Australian Government**  
**Department of Health and Ageing**  
**Therapeutic Goods Administration**

**AUTHORISATION OF SUPPLY UNDER s19(5) OR SECTION 41HC**  
**THERAPEUTIC GOODS ACT 1989**  
**Consent to Treatment and Indemnity for Use of**  
**Products Derived from Biological Tissue Including Human Blood or Plasma**

I, .....  
 (name of patient or parent/guardian)

understand that the Commonwealth can give no guarantee as to the quality, safety or efficacy  
 of.....(name of product),

particularly as regards any prion or viral inactivation procedures used in its manufacture.  
 Accordingly, the Commonwealth can accept no liability for its use.

I understand that this product is not approved for use in Australia but that use of the product  
 has been approved under the provisions of section 19(5) or section 41HC of the *Therapeutic  
 Goods Act 1989*.

I confirm that the above statements have been explained to me and in this knowledge agree to  
 administration of the product to me/my ward.

**Patient's name:** .....

**Signature of patient:** ..... **Date:** .....  
 (or parent/guardian)

**Signature of witness:** ..... **Date:** .....

I have explained the above statements to the patient or the patient's parent/guardian.

**Treating physician:** .....

**Signature:** ..... **Date:** .....

***Do Not Send to TGA.***  
***Should be kept on patient's file***





## **APPENDIX 4**

### **HREC LETTER OF ENDORSEMENT FOR AUTHORISED PRESCRIBERS**

## ETHICS COMMITTEE LETTERHEAD

[Dr's name]  
[Title (if applicable)]  
[Dr's address]

Dear Dr [ ],

**Ethics committee endorsement for the purpose of becoming an Authorised Prescriber of  
an unapproved product under subsection 19(5)/ Section 41HC [delete as appropriate] of  
the Therapeutic Goods Act**

The [name] Human Research Ethics Committee hereby endorses you for the purpose of becoming an Authorised Prescriber under subsection 19(5)/ Section 41HC [delete as appropriate] of the Therapeutic Goods Act.

This endorsement is restricted to the following circumstances:

Unapproved product:	[drug/ device: trade and generic names if available]
Indication for use:	[illness/condition/class of patient]
Site(s) covered by the endorsement:	[hospital/rooms etc]
Conditions imposed by the HREC:	[provision of usage reports to HREC] [reporting of adverse events to HREC]

Please present a copy of this endorsement letter to the TGA as part of your application to become an Authorised Prescriber.

Yours sincerely

[ ]  
Chair  
[ ] Human Research Ethics Committee  
Date     /     /

**APPENDIX 5**  
**ADRAC BLUE CARD**



## Report of Suspected Adverse Reaction to Drugs and Vaccines

*(See reverse statement about use of personal information)*

**Patient** *(Initials or Record No. only)*

Date of Birth:     /     /

Sex: M/ F     Weight: \_\_ \_\_ kg

**Adverse Reaction Description:**

Date of Onset of Reaction:     /     /

All Drug Therapy/Vaccines Prior to Reaction <i>(please use trade names)</i>	Daily Dosage <i>(Dose No for vaccines, eg 1st DTP etc)</i>	Date Begun	Date Stopped	Reason for Use

**Treatment** *(of reaction):*

**Outcome:** Recovered ☐     Date of Recovery:     /     /     Not Yet Recovered ☐  
                          Unknown ☐     Fatal ☐     Date of Death:     /     /

**Sequelae:**     No ☐     Yes ☐ *(describe)*
**Severity:**     Life threatening ☐     Hospitalised ☐     Required a visit to Doctor ☐
**Comments** *(eg. relevant history, allergies, previous exposure to this drug):*
**Reporting Doctor, Pharmacist, etc:**

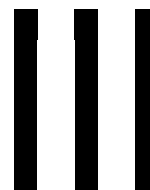
Name:

Postcode \_\_\_\_

Address:

Signature \_\_\_\_\_ /     /

No postage stamp required  
if posted in Australia



**Reply Paid 61**  
**The Secretary, ADRAC**  
**Australian Drug Evaluation Committee**  
**PO Box 100**  
**Woden ACT 2606**

Sender's Name and Address

---

---

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---

Postcode

**Use of Personal Information:**

Full details of Immunisation Schedule vaccine events  
may be provided to State or Territory health departments.  
Identities of all other reporters, patients and institutions  
will remain **CONFIDENTIAL**.

**APPENDIX 6**

**MEDICAL DEVICE INCIDENT REPORT FORM**



## The Australian and New Zealand Medical Device Incident Report Investigation Scheme

What is it? The Scheme is a joint venture between the Australian Therapeutic Goods Administration and Medsafe, the New Zealand Medicines and Medical Devices Safety Authority, intended to help maintain the standard of devices used in health care through voluntary co-operation between users, government and industry. It should be used in conjunction with local reporting channels. It provides an additional means by which unsafe products or procedures can be identified quickly so that appropriate action is taken.

Use this form to report any suspected problems with a therapeutic device which has or may present a health hazard. Reports originating in Australia should be sent to the Therapeutic Goods Administration and reports originating in New Zealand should be sent to the Ministry of Health.

What should be reported? Typical problems include deficiencies in labelling, instructions or packaging, defective components, performance failures, poor construction or design. Suggestions for rectifying the problem or improving product performance would be appreciated.

What happens to your report? The report will be investigated and discussed with the manufacturer/supplier. You may be contacted for further information. If appropriate both Agencies will assess the issue and it may also be reported to other Health Authorities. If action is considered necessary it may involve any of the following: 1. Recall - removal of goods from sale or use, or their correction, for reasons relating to safety, efficiency or quality. 2. Therapeutic Device Alert - urgent information to inform those responsible for the device, or affected by the problem. 3. Report in a Therapeutic Device Bulletin (a communication produced by the TGA and distributed in Australia and New Zealand to convey information on medical devices) or other appropriate journal(s).

## Medical Device Incident Report

Use this form to report any suspected problem with a therapeutic device which may create a health hazard. A therapeutic device is any material instrument, apparatus, machine implement, contrivance, implant etc including any component, part or accessory which is used in health care and includes diagnostic reagents

### A. Product Identification *(Provide all available details. Where \* appears, delete whichever is not applicable)*

1.	Product Type/Application (eg Urinary Catheter)					
2.	Brand/Trade * Name and Model Number					
3.	Serial/Batch/Lot * Number					
4.	Date of manufacture		Date of purchase		Date of expiry	* AUSTRAL or AUSTR No.
5.	Manufacturer's name address and telephone					
6.	Supplier's name address and telephone					
7.	Has the manufacturer been informed of the problem?	Yes	<input type="radio"/>	No	<input type="radio"/>	
	If Yes, please supply the date and contact name					
8.	Is the product/packaging * available for inspection?	Yes	<input type="radio"/>	No	<input type="radio"/>	<i>(please do not discard these items)</i>

**Important: Please fill in Sections B and C overleaf**

**B. Problem Description:**

--

1. Consequences and history of problem:  
(please include history, circumstances, consequences and where relevant sketches or explanatory information)

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**C. Reporter Identification**

Do you want your identity to remain confidential? Yes ☐ No ☐

1.	Name	<input style="width: 70%;" type="text"/>		
2.	Position/ occupation	<input style="width: 70%;" type="text"/>		
3.	Dept or Institution	<input style="width: 70%;" type="text"/>		
4.	Address	<input style="width: 70%;" type="text"/>		
		<input style="width: 70%;" type="text"/>		
5.	Telephone	<input style="width: 25%;" type="text"/>	Facsimile	<input style="width: 25%;" type="text"/>
	E-mail	<input style="width: 40%;" type="text"/>	Office Use	<input style="width: 20%;" type="text"/>
	Signature	<input style="width: 40%;" type="text"/>	Date	<input style="width: 20%;" type="text"/>

**D. Submitting the Form**

**In Australia:**

Reply Paid 32  
The Manager  
Medical Device Incident Report Investigations  
Therapeutic Goods Administration  
PO Box 100 Woden ACT 2606  
AUSTRALIA

**Fax Number: (02) 6232 8555,**  
**E-mail : [iris@health.gov.au](mailto:iris@health.gov.au)**  
**Urgent problems may be reported by**  
**telephone to our HOTLINE : 1800 809 361.**

**In New Zealand:**

Compliance Team  
Medsafe  
Ministry of Health  
PO Box 5013  
Wellington  
NEW ZEALAND

**Fax Number: (04) 496 2599,**  
**E-mail : [trevor.nisbet@moh.govt.nz](mailto:trevor.nisbet@moh.govt.nz)**  
**Urgent problems may be reported by**  
**telephone on (04) 496 2364**



## **Therapeutic Goods Administration**

PO Box 100 Woden ACT 2606 Australia

Email: [info@tga.gov.au](mailto:info@tga.gov.au) Phone: 1800 020 653 Fax: 02 6232 8605

**[www.tga.gov.au](http://www.tga.gov.au)**