Australian Government
Department of Health
Therapeutic Goods Administration

Consultation paper: Changes to accessing unapproved therapeutic goods through the Authorised Prescriber (AP) and Special Access Schemes (SAS)

TGA Health Safety Regulation

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Purpose and scope

In March 2015, the Expert Panel conducting the *Review of Medicines and Medical Devices Regulation* (MMDR Review) made recommendations aimed at streamlining the TGA's processes and improving timely access by Australian consumers to medicines and medical devices.

On 15 September 2016, the Australian Government released its *Response to the Review of Medicines and Medical Devices Regulation*. Consultation with stakeholders will ensure that implementation of these reforms maintains timely and sustainable access to medicines for all Australians.

The Therapeutic Goods Administration (TGA) is seeking comments on changes proposed to the Special Access Scheme (SAS) and Authorised Prescriber (AP) Scheme arising from implementation of a number of MMDR recommendations. The Government endorsed MMDR Recommendations 24-26, relevant to SAS and AP. The proposed changes would introduce a notification system for access to certain unapproved therapeutic goods for patients with non-life threatening conditions. The existing SAS A notification and SAS B application access pathways would remain in place.

The MMDR Review also recommended improving the TGA processes for unapproved therapeutic goods by establishing an integrated, online system to manage notifications, approvals and reporting requirements. The TGA is seeking some general feedback at this time from stakeholders about the idea of moving to an online system, but targeted consultation with regular users of the current paper-based system will occur once the design of the system is further developed.

Special Access Scheme Category B

In response to Recommendation 24 of the MMDR Review the TGA proposes to enable access to certain unapproved therapeutic goods through a notification process – where currently an approval process is required - and provide criteria to identify those unapproved therapeutic goods for which a notification process is appropriate. This change will enable more timely access to unapproved therapeutic goods for patients under SAS B and reduce regulatory burden on clinicians whilst maintaining an appropriate level of regulation, commensurate with the risk posed by the therapeutic good.

This approach is intended to apply to medicines, biologicals and devices and information is sought on how the process should be implemented to meet the needs of stakeholders across that range of unapproved therapeutic goods.

We are specifically seeking feedback on:

1. The criterion proposed to decide which products for certain indications and uses could be notified to TGA under Special Access Scheme Category B, rather than require an application to be made under that scheme.
2. How to best communicate this change and what support is required from the TGA to make the change.
3. Moving to a completely online system for applications and notifications within a reasonable transition period.

Authorised Prescriber Scheme

In response to Recommendation 26 of the MMDR Review, the TGA proposes to enable more timely access to unapproved therapeutic goods for patients under the Authorised Prescriber (AP) scheme and reduce regulatory burden on clinicians who use this scheme to access therapeutic goods for their patients.

This will be achieved by reducing duplication of the information submitted to, and assessed by, Human Research Ethics Committees (HRECs)/specialist colleges and TGA to support an AP application. Furthermore, the duration of the AP authorisation will be risk-based to reduce regulatory burden on medical practitioners without compromising patient safety.

Background

The *Therapeutic Goods Act 1989* (the Act) and its associated Regulations provide a number of avenues through which 'unapproved therapeutic goods' may be supplied, including the Authorised Prescriber (AP) and Special Access Schemes (SAS).

An unapproved therapeutic good means:

- any medicine not entered on the Australian Register of Therapeutic Goods (ARTG)
- any medical device not entered in the ARTG
- any biological not entered in the ARTG
- a therapeutic good already in the ARTG that is used beyond the conditions of its marketing approval.

The SAS is currently categorised into Categories A and B, as outlined in the Table below.

Special Access Scheme Category Eligibility Criteria

	Category A	Category B
Patient	Life-threatening*	Non-life-threatening
Prescriber	Medical practitioner	Persons (including medical practitioners)
Process	Notification	Application

* Seriously ill with a condition from which death is reasonably likely to occur within a matter of months, or from which premature death is reasonably likely to occur in the absence of early treatment; and for medical devices means a person who is seriously ill with a condition that is reasonably likely to lead to the person's death within less than a year or, without early treatment, to the person's premature death.

Why are we changing?

Special Access Scheme Category B

The TGA receives around 20,000 SAS B applications per year. Only 0.3% of these applications are rejected by the TGA, and processing applications may involve extensive liaison and consultation with practitioners to ensure sufficient information is available for an approval decision to be made. This translates to a high administrative burden for applicants, with paperwork required to be sent to, and followed up with, the TGA. This percentage of rejections identifies that a significant number of therapeutic goods currently used under the SAS B do not appear to pose an issue for public health and safety.

Authorised Prescriber Scheme

An analysis of AP data from 2015 identified that less than 1% of applications are rejected by the TGA and those rejections arose because there was an alternative product included in the ARTG obviating the need to use an unregistered therapeutic good. The TGA intends to streamline the parts of the AP application process that could be considered to be both burdensome to practitioners and impact on timely patient access to the goods.

Online System

The development of an online system for SAS (applications and notifications) and AP (applications) would be part of improvements to the pathways for access to unapproved therapeutic goods, including by allowing users to enter information directly into the system, reduce any unnecessary administrative burden on health care practitioners and sponsors, and provide real time monitoring of applications and notifications in the system.

How will the policy look when implemented?

Special Access Scheme Category B

To enable notification of unapproved therapeutic goods via the SAS B access pathway, a criterion to help identify an unapproved therapeutic good's suitability for notification rather than being subject to an approval process is proposed below. This criterion will be used to create a list of unapproved goods and their indications eligible for notification under SAS B with the view that this list can be updated periodically by the TGA to include additional therapeutic goods or remove therapeutic goods as needed in a timely manner.

The details to be included on the list of goods could be, at a minimum, for a medicine and biological, the name of the active ingredient, indication/s and dosage form related to the product; and for medical devices, the device name and intended purpose. This level of detail ensures that there are clear parameters around the supply of therapeutic goods through this notification scheme. The following criterion is proposed to identify unapproved therapeutic goods for which access is appropriate through a SAS B notification:

Criterion:

Unapproved Therapeutic Goods that have an established history of use for a given indication/intended purpose.

This criterion could be met by, for example, medicines, biologicals and medical devices demonstrating a history of use in Australia or overseas without significant safety concerns during the preceding three year period. While not an exhaustive list of significant concerns that might be contemplated in deciding on the list of products, examples of significant safety concerns might include:

- evidence that impacts on the risk/benefit profile of the therapeutic good; or
- withdrawal or cancellation of marketing authorisation in another jurisdiction on the basis of safety issues with the therapeutic good; or
- higher than acceptable rates of serious adverse events.

Other factors for consideration to determine an established history of use would include, but are not limited to, therapeutic goods in the preceding three year period:

- were previously registered in the ARTG for the proposed indication/intended use and were not cancelled or withdrawn for safety reasons;
- have been approved for the proposed indication/intended use by a comparable overseas national regulatory authority;
- have been deemed by the TGA as suitable for treatment of a particular indication/intended use, including by virtue of the fact that TGA has consistently approved SAS B applications for the good during this period.

Consistent with the proposed requirements under the therapeutic goods legislation TGA would initiate the process for an unapproved good being listed as notifiable under SAS B. TGA would use the factors for consideration listed above to decide whether the therapeutic good is included in the notification listing.

Unapproved goods should only be accessed in exceptional circumstances where goods on the ARTG are not clinically suitable for a patient. To maintain the integrity of the ARTG, TGA would determine which goods to include on the notification listing based on the agreed criterion. This decision will not be appealable.

Schedule 8, 9 or Schedule 10 substances in the Poisons Standard and medicinal cannabis preparations at this stage will not be eligible for SAS B notification.

If concerns emerge relating to the safety of the therapeutic good on the notification list, the good would be removed from the list and any further requests to access the good would need to be considered under the SAS B application pathway.

Only goods that are not substantially similar to goods already in the ARTG will be eligible for SAS B notification. This ensures that the criterion can only be applied to goods where no appropriate therapeutic good is on the ARTG. For example, in situations where a smaller pack size of the

same therapeutic good exists, the large pack size product from a competitor will not be able to be notified to the TGA.

It should be noted that there may be limitations relating to including medical devices on the notification listing. The identity of medical devices often lacks the clarity that would allow precise discrimination between different devices that have similar uses. Only those devices that can be specifically and consistently identified would be suitable for inclusion on the listing.

Why was the criterion selected?

The overarching approach in developing the criterion was that of confidence in the safety and efficacy of the therapeutic good if made available to patients through a notification process that has been demonstrated by having an established history of use in either Australia or overseas.

The TGA presumes that prescribers of unapproved therapeutic goods have appropriate knowledge, skills and experience to prescribe the unapproved therapeutic good and are therefore in the best position to understand all relevant literature and the needs of the patient. The prescriber is responsible for prescribing the therapeutic goods and has a responsibility to ensure that goods prescribed to the patient have a favourable risk/benefit profile.

It is accepted that most therapeutic goods supplied through SAS are established pharmaceuticals in other regulated jurisdictions, and that quality standards apply in those jurisdictions.

Is the proposed criterion suitable for identifying unapproved therapeutic goods that are suitable for notification? Are there any amendments to the proposed criterion that would enhance the process?

Authorised Prescriber Scheme

The AP Scheme allows approved prescribers to prescribe a specific therapeutic good to a class of patients under their care. The current process involves assessment of the clinical justification by both the TGA and either a human research ethics committee (HREC) or specialist medical college.

There are no changes proposed to the Human Research Ethics Committee (HREC) or Specialist College roles in the Authorised Prescriber Scheme, but the TGA will provide increased guidance to assist in the delivery of those roles.

The TGA will no longer need to approve the clinical justification for use of products, instead we will rely on the HREC/college expertise, which will improve the efficiency of the scheme. TGA assessment of the AP application will be limited to:

- ensuring that no other available goods on the register could act as an alternative; and
- confirming HREC or specialist college endorsement is provided, including a declaration that all necessary documentation has been reviewed; and
- there are no safety concerns with the product.

Subject to the discretion of the Delegate who makes the decision to approve a particular AP for a product and indication it is proposed that the duration of the AP approval can be extended to up to three years for a medical device and up to five years for a medicine, provided there is a history of established use of the product to be determined using the same factors for consideration as for the SAS B notification. This will lessen the regulatory burden on applicants, who currently have to seek re-approval after 1 or2 years (for devices and medicines, respectively). The different re-approval time frames for devices and medicines reflect the specialised nature of medical devices that are accessed through the AP Scheme. Such devices are often considered to have a shorter market life than medicines. This is due to rapid technological change which results in earlier product redundancy with the release of newer goods.

Communicating and managing the changes

It is important that the changes to the SAS Category B and AP Schemes be clearly communicated to the users of the schemes, and in particular that health practitioners are effectively engaged in the consultation.

For the SAS Category B Scheme, a list of certain unapproved therapeutic goods that are suitable for notification for specific indications will be developed and published by the TGA on the TGA website. In addition, it is proposed that high volume prescribers and existing regular users of the SAS Category B Scheme will be advised of the list by direct email.

Some limited engagement with certain high volume users of the AP scheme has already been undertaken by the TGA to inform the proposed improvements to the scheme. On the basis of the feedback provided we will develop and publish general guidance material on our website to provide clarity to HRECs and specialist colleges about changes to the scheme and specifically any changes to the roles and responsibilities of the TGA and HRECs/colleges. Targeted communication with the high volume users of the AP scheme will also be undertaken via email.

- In addition to publishing the notification listing on the TGA website, how else could we make stakeholders aware of what therapeutic goods are on the SAS Category B notification list?
- In addition to publishing information on the TGA website, how else could we communicate the changes to the SAS B scheme to stakeholders?
- What information is needed by HRECs and colleges to clarify any changes in roles and responsibilities for the Authorised Prescriber Scheme? Are general guidance documents from the TGA the best mechanism for conveying the information?
- In addition to guidance on the TGA website, what else could we do to provide information to HRECs and colleges on the changes to AP?
- What further guidance/information would be useful to HRECs and colleges to assist them when they are considering documents submitted to them by an AP?

Compliance

It is recognised that a key part of delivering the proposed changes to the SAS and AP schemes is developing and implementing a monitoring and compliance framework to ensure that the appropriate balance between improving timely access to unapproved therapeutic goods and patient risk is achieved. We intend to develop and implement improved monitoring of the use of the schemes (SAS A notification, SAS B notification and approval, Authorised Prescriber) to ensure that they work efficiently and effectively for access to unapproved goods.

A number of notifications are currently made using the SAS A scheme that appear to be more appropriate for SAS B. A monitoring and compliance framework, including guidance, will be developed to allow users of the schemes to more consistently use the appropriate access pathway for their unapproved goods.

- What information is required to assist in complying with the SAS and AP Schemes?
- Would it be useful to have a standardised template for reporting to assist in complying with the TGA requirements?

Processes

An integrated, online system to manage the SAS (applications and notifications) and AP (applications) access pathways will be established as part of the scope of work consistent with Recommendation 25 from the MMDR review. The online system will facilitate timely access to unapproved therapeutic products to Australian patients. The existing SAS B approval process will also be improved through the integrated online system, and will remain in place for those unapproved goods for which an approval process is still required. Targeted stakeholder engagement on the online system will be undertaken. Existing paper-based application/notification processes will be maintained until we are satisfied that an online system meets our and stakeholder needs.

- What are your views about moving solely to an online system for SAS and AP Scheme applications and notifications?
- Is there a time by which you think a paper-based system would no longer be needed?
- Would integration into existing clinical software systems (such as prescribing and dispensing) be an important element of the new process?
- Would you be interested in participating in the targeted consultation on the online system?

Version history

Version	Description of change	Author	Effective date
V1.0	Original publication	Pharmacovigilance and Special Access Branch, Therapeutic Goods Administration	15/02/17

Therapeutic Goods Administration

PO Box 100 Woden ACT 2606 Australia
Email: info@tga.gov.au Phone: 1800 020 653 Fax: 02 6232 1605
https://www.tga.gov.au

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