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# Certificate under subsection 26B(1) of the *Therapeutic Goods Act 1989*

Where required in relation to registration or listing under section 25AB, 26,  
26A or 26AE of the *Therapeutic Goods Act 1989*

I,  
\_\_\_\_\_  
[Name, and where applicable, relationship to applicant]

\_\_\_\_\_  
[Applicant name]

\_\_\_\_\_  
[Applicant address]

give, or am authorised on behalf of the applicant to give, this certificate to the Secretary in relation to the registration under section 25AB of the Act, or listing under section 26, 26A or 26AE of the Act, of the following therapeutic goods (the therapeutic goods):

\_\_\_\_\_  
[Description of the therapeutic goods]

The applicant certifies that:

(a) acting in good faith, it believes on reasonable grounds that it is not marketing, and does not propose to market, the therapeutic goods in a manner, or in circumstances, that would infringe a valid claim of a patent that has been granted in relation to the therapeutic goods;

OR

- (b) (i) a patent has been granted in relation to the therapeutic goods; and
- (ii) the applicant proposes to market the therapeutic goods before the end of the term of the patent; and
- (iii) the applicant has given the patentee notice of the application for registration or listing of the therapeutic goods under section 23 of the Act.

**[Strike out whichever statement, (a) or (b), does not apply]**

**Note 1:** A patent is taken to have been granted in relation to therapeutic goods if marketing the goods without the authority of the patentee would constitute an infringement of the patent.

**Note 2:** 'Patent' has the same meaning as in the *Patents Act 1990*, which means a standard patent (granted under section 61 of that Act) or an innovation patent (granted under section 62).

**Note 3:** This certificate must be signed by, or on behalf of, the applicant. If signing on behalf of the applicant, the person signing must be authorised to do so. If you are not the applicant, then please provide documentary evidence of the authority to sign on behalf of the applicant.

Alternatively, a company may execute this certification in accordance with section 127 of the *Corporations Act 2001*, as follows:

- (1) A company may execute a document without using a common seal if the document is signed by:
  - (a) 2 directors of the company; or
  - (b) a director and a company secretary of the company; or
  - (c) for a proprietary company that has a sole director who is also the sole company secretary – that director.
- (2) A company with a common seal may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:
  - (a) 2 directors of the company; or
  - (b) a director and a company secretary of the company; or
  - (c) for a proprietary company that has a sole director who is also the sole company secretary – that director.

**Note 4:** A person is guilty of an offence if:

- (a) the person gives a certificate required under subsection 26B(1) of the Act; and
- (b) the certificate is false or misleading in a material particular.

Maximum Penalty: 1,000 penalty units.

Reference: subsection 26B(2) of the Act

Witnessed by:

\_\_\_\_\_  
Applicant's signature or authorised  
person signing on behalf of applicant or  
Signature 1

\_\_\_\_\_  
Witness' Signature

\_\_\_\_\_  
Name 1/ Position

\_\_\_\_\_  
Witness' Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Witnessed by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness' Signature

\_\_\_\_\_  
Name 2/ Position

\_\_\_\_\_  
Witness' Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date