EXPLANATORY STATEMENT

Therapeutic Goods Act 1989

Therapeutic Goods Order No. 77 *Microbiological Standards for Medicines*

OUTLINE

Therapeutic Goods Order No. 77 *Microbiological Standards for Medicines* (TGO 77, this Order) is an Order made by the delegate of the Minister for Health and Ageing under section 10 of the *Therapeutic Goods Act 1989* (the Act).

On and from 1 January 2010, medicines supplied in Australia will need to comply with the requirements specified in this Order.

BACKGROUND

Section 10 of the Act provides the Minister, or the Minister's delegate, with the power to determine standards for therapeutic goods, or to amend or revoke existing standards, after consultation with a committee established by the *Therapeutic Goods Regulations 1990* (the Regulations) to advise the Minister on standards. The Therapeutic Goods Committee (TGC) is the committee established by the Regulations for this purpose, and it is established by, and its functions and composition are set out in, regulation 34 of the Regulations.

Standards determined by the Minister under section 10 of the Act may be specified by reference to quality, procedures to be carried out in the manufacture of therapeutic goods, specified monographs or such other matters as the Minister thinks fit. In general, a medicine must not be imported, exported or supplied if it does not conform with standards applicable to that medicine. Paragraph (b) of subsection 10(2) of the Act states that an Order establishing a standard for therapeutic goods may require that a matter relating to the standard be determined in accordance with a particular test.

At its 31st meeting, held on 29 November 2007, the TGC advised by resolution that a new Order to specify microbiological standards for medicines should be established and recommended that stakeholder consultation be undertaken on a draft Order.

Following consideration of stakeholder responses at its meeting on 29 April 2008, the TGC advised by resolution that draft TGO 77, as amended by the committee at that meeting, should be adopted as a standard for medicines made under section 10 of the Act.

TGO 77 specifies the minimum microbiological requirements with which a medicine must comply throughout its shelf life.

In particular, TGO 77 specifies which medicines must comply with a Test for Sterility and Bacterial Endotoxin testing; which medicines must comply with a preservative efficacy test; and the acceptance criteria for microbiological quality that apply to non-sterile medicines.

The attachment to this Explanatory Statement outlines the content of the individual sections of this Order.

Under paragraph 6(d)(i) of the *Legislative Instruments Act 2003* (LIA), an instrument is a legislative instrument if it is declared to be a disallowable instrument under legislation in force before the commencement of the LIA. This Order is a legislative instrument and it is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LIA.

CONSULTATION

The development of TGO 77 followed from work undertaken by an expert committee in preparation for the proposed, but now postponed, joint Australia New Zealand regulatory agency. Stakeholder consultation was conducted on the technical requirements that should be included in an Order on microbiological standards for the proposed joint regulatory agency. Following postponement of the joint regulatory agency, the TGC recommended that the draft joint agency Order be converted to a form suitable for adoption under existing Australian legislation and undergo stakeholder consultation.

Comprehensive stakeholder consultation was undertaken on a draft of TGO 77 in early 2008.

The stakeholder consultation process involved publication on the website of the Therapeutic Goods Administration (TGA) (www.tga.gov.au) of a notice inviting comment together with the draft Order and a companion guidance document explaining the proposed requirements. Peak industry bodies, consumer organisations, health professional organisations and relevant areas of government were invited directly to provide comments. The period allowed for submission of comments was approximately 6 weeks.

The consultation attracted 26 submissions, all of which were considered by the TGC at its 32nd meeting, held on 29 April 2008. In general, stakeholders were supportive of the proposed TGO 77.

Some submissions argued against the microbiological requirements proposed for products such as herbal teas (see Schedule 2 of this Order). The TGC noted that there is no internationally agreed microbiological standard for such products and that the TGA anticipated that existing medicines will readily comply with the requirement.

Compared to the consultation draft, the TGC recommended some minor editorial changes and that the commencement date of TGO 77 be deferred by 6 months.

The delegate of the Minister for Health and Ageing has accepted the recommendation made by the TGC that draft TGO 77 be adopted as an Order made under section 10 of the Act. Certain editorial changes were made to include reference to the European Pharmacopoeia and to the United States Pharmacopoeia-National Formulary in the body of TGO 77.

INFORMATION ABOUT THE BRITISH PHARMACOPOEIA

The current definition of the British Pharmacopoeia under the Act is the British Pharmacopoeia 2008. The British Pharmacopoeia 2008 is a collection of approximately 2900 monographs for pharmaceutical substances and medicinal products for human use. The monographs specify requirements for identification, solubility, uniformity, assay (strength), sterility, impurities, and other parameters. There are monographs for active ingredients, excipients (inert substances that are necessary to manufacture the product), formulated preparations (eg, tablets, injections, ointments), traditional herbal medicinal products,

homoeopathic medicines, blood products, vaccines and radiopharmaceuticals. Associated test methods are also included in the British Pharmacopoeia.

The British Pharmacopoeia is generally considered to be an essential reference for anyone concerned with the quality of medicines, including for the pharmaceutical and chemical industries, quality control personnel, analysts and academics.

The British Pharmacopoeia is published by The Stationery Office on behalf of the Medicines and Healthcare products Regulatory Agency of the UK. It is available as a hard copy edition, on CD and online.

INFORMATION ABOUT THE EUROPEAN PHARMACOPOEIA

The European Pharmacopoeia 6th edition including supplement 6.2 is a collection of approximately 1800 monographs for pharmaceutical substances and medicinal products for human use.

Its content and role are similar to that of the British Pharmacopoeia.

The European Pharmacopoeia is published by Directorate for the Quality of Medicines & HealthCare of the Council of Europe. It is available as a hard copy edition, on CD and online.

INFORMATION ABOUT THE UNITED STATES PHARMACOPOEIA

The United States Pharmacopoeia 31st edition – National Formulary 26th edition is a collection of approximately 4000 monographs for pharmaceutical substances and medicinal products for human use.

Its content and role are similar to that of the British Pharmacopoeia.

The United States Pharmacopoeia – National Formulary is published by The United States Pharmacopeial Convention. It is available as a hard copy edition, on CD and online.

REGULATION IMPACT

Preliminary assessment of compliance costs associated with TGO 77, using the Preliminary Assessment checklist of the Office of Best Practice Regulation, has been undertaken in accordance with Best Practice Regulation requirements.

This preliminary assessment led to the conclusion that this Order would have a low impact on business and would not restrict competition. As the impact would be low, a Regulation Impact Statement has not been prepared.

TGO 77 is an instrument that is of a minor or machinery nature and does not substantially alter existing arrangements. This Order is needed to provide clarity on the requirements for microbiological quality of medicines. This Order does not establish significantly different standards from current recommendations and is consistent with internationally harmonised standards, where such exist.

Stakeholders who encounter difficulties complying with the requirements for a specific medicine can apply to the TGA for consent for the non-compliance to the applicable standard. Such applications for consent will be considered on a case-by-case basis.

Attachment 1

TGO 77 – Description by Section

Section 1 specifies that the name of this Order is Therapeutic Goods Order No. 77 *Microbiological Standards for Medicines.*

Section 2 specifies that on and from 1 January 2010, each medicine to which this Order applies must comply with this Order.

Section 3 is an introduction to this Order. It states that this Order establishes the minimum microbiological requirements that apply throughout the shelf life of the medicine.

Section 4 provides definitions of terms used in this Order and where relevant directs the reader to meanings given in the Act or Regulations. Definitions specific to this Order are provided for 'acceptance criteria', 'antimicrobial preservation', 'CFU' (colony forming units), 'default standard', 'European Pharmacopoeia', 'monograph', and the 'United States Pharmacopoeia-National Formulary'.

Section 5 describes the area of application of this Order. Unless specifically exempted from the application of this Order or exemption has been granted by the Secretary under section 14 or 14A of the Act, this Order applies to all therapeutic goods that are medicines for human use and that come within the operation of the Act.

Section 6 specifies a range of medicines that are not subject to this Order.

Section 7 specifies the medicines that must comply with a Test for Sterility and Bacterial Endotoxin testing of a default standard. A medicine is required to comply with these tests if this requirement is specified in a 'default standard' (the 'default standard' is currently the British Pharmacopoeia) or when the medicine claims on its labelling or packaging that the medicine is sterile.

Section 8 specifies the medicines that must comply with a test for the efficacy of antimicrobial preservation. All aqueous multidose medicines must comply with the test. Compliance with the test of the British Pharmacopoeia or of the European Pharmacopoeia is required. For a liquid oral antacid, the medicine could alternatively comply with the test of the United States Pharmacopoeia – National Formulary.

Section 9 specifies the acceptance criteria for microbiological quality that apply to non-sterile medicines.

Subsection 9(1) specifies that a non-sterile medicine, other than those mentioned in subsection 9(2), must comply with the acceptance criteria for microbiological quality of the British Pharmacopoeia, the European Pharmacopoeia or of the United States Pharmacopoeia – National Formulary, when tested using the specified methods. The acceptance criteria and testing methods in these three pharmacopoeias are comparable.

Subsection 9(2) specifies that a complementary medicine oral dosage form containing raw material of natural (animal, vegetal or mineral) origin must comply with the acceptance criteria for microbiological quality specified in Schedule 1 of this Order, unless the medicine is a herbal medicine consisting solely of one or more herbal substances (whole, reduced or

powdered) to which boiling water is added before use, in which case the medicine must comply with the acceptance criteria specified in Schedule 2.

Schedule 1 tabulates the acceptance criteria for microbiological quality that apply to a complementary medicine oral dosage form containing raw material of natural (animal, vegetal or mineral) origin.

Schedule 2 tabulates the acceptance criteria for microbiological quality that apply to a herbal medicinal product consisting solely of one or more herbal substances (whole, reduced or powdered) to which boiling water is added before use.