

## EXPLANATORY STATEMENT

Subject: *Therapeutic Goods Act 1989*

*Poisons Standard March 2016*

The *Therapeutic Goods Act 1989* (the TG Act) provides for the establishment and maintenance of a system of controls for the quality, safety, efficacy and timely availability of therapeutic goods that are used in Australia or exported from Australia. The TG Act also provides for a framework for the States and Territories to adopt a uniform approach to control the availability and accessibility, and to ensure the safe handling, of poisons in Australia. The Therapeutic Goods Administration (the TGA) is responsible for administering the TG Act.

Subsection 52D(2) of the TG Act authorises the Secretary to the Department of Health, or a delegate of the Secretary, to amend the current Poisons Standard (known as the Standard for the Uniform Scheduling of Medicines and Poisons) or to prepare a document (a new Poisons Standard) that includes schedules containing the names or descriptions of substances, in substitution for the current Poisons Standard.

Part 6-3 of the TG Act provides the basis for a uniform system of access controls for goods containing scheduled substances. The scheduling of substances allows restrictions to be placed on their supply to the public, in the interests of public health and safety. The scheduling of substances is aimed at minimising the risks of poisoning from, and the misuse or abuse of, scheduled substances.

The TG Act establishes two expert advisory committees, the Advisory Committee on Medicines Scheduling (the ACMS) (section 52B) and the Advisory Committee on Chemicals Scheduling (the ACCS) (section 52C), which provide advice and make recommendations to the Secretary (or a delegate of the Secretary) on matters relating to medicines and chemicals scheduling decisions.

The Poisons Standard consists of decisions of the Secretary, or a delegate of the Secretary, regarding the classification of poisons into nine different Schedules signifying the degree of control recommended to be exercised over their availability to the public.

The Schedules contained in the Poisons Standard are referred to under State and Territory legislation for regulatory purposes. This enables restrictions to be placed on the supply of scheduled substances to the public, according to the degree of risk associated with them and the degree of control recommended to be exercised over their availability, in the interest of public health and safety.

The Commonwealth also takes into account the scheduling and classification of substances in the Poisons Standard for regulatory and enforcement purposes under the TG Act.

For example, the TG Act and regulations prohibit the publication of advertisements to consumers about prescription medicines included in Schedule 4 or 8 of the Poisons Standard or over the counter medicines included in Schedule 3 and not included in

Appendix H of the Poisons Standard. The advertising of substances included in Schedule 9 or Schedule 10/Appendix C of the Poisons Standard is also prohibited.

The *Scheduling Policy Framework* (SPF) provides guidance to assist delegates in making a decision on whether a matter would benefit from being referred to an expert advisory committee for advice. A copy of the SPF is available from <https://www.tga.gov.au/publication/ahmac-scheduling-policy-framework-medicines-and-chemicals>.

The purpose of this instrument is to prepare a new Poisons Standard (cited as the Poisons Standard March 2016) in substitution for the previous Poisons Standard. The previous Poisons Standard that is being substituted is the Poisons Standard February 2016 (which commenced on 1 February 2016).

The Poisons Standard March 2016 incorporates one change to the Poisons Standard February 2016. This amendment involves re-inserting the entry in Schedule 5 of the Poisons Standard for METHYLATED SPIRIT(S) (being ethanol denatured with denatonium benzoate, methyl isobutyl ketone and fluorescein) except when included in preparations or admixtures or when packed in containers with a capacity of more than 5 litres, which was inadvertently omitted from the Poisons Standard February 2016.

The omission of this entry from the Poisons Standard February 2016 means the majority of methylated spirit(s) products are currently unscheduled. This updated Poisons Standard will correct this unintended error and ensure that appropriate regulatory controls such as labelling and packaging requirements apply to relevant methylated spirit(s) products that are currently on the market, and to any new products being introduced into the market.

The amendment to restore this entry was not open to public consultation, as it was considered (in accordance with the SPF), to be sufficiently straightforward as to not require public consultation.

The Poisons Standard is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (the LIA). However, section 42 (disallowance) of the LIA does not apply (refer to subsection 52D(4A) of the TG Act).

As this instrument is not disallowable, subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* does not require that the instrument be accompanied by a statement of compatibility with the human rights recognised under that Act.

The instrument commences on 1 March 2016.