

EXPLANATORY STATEMENT

NATIONAL HEALTH ACT 1953

National Health (Pharmaceutical Benefits – Therapeutic Groups) Amendment Determination 2013 (No. 4)

PB 77 of 2013

Authority

This legislative instrument is made pursuant to subsection 84AG(1) of the *National Health Act 1953* (the Act), which gives the Minister the power to determine a therapeutic group and that two or more listed drugs are in the same therapeutic group.

Purpose

This legislative instrument amends the *National Health (Pharmaceutical Benefits – Therapeutic Groups) Determination 2010* (PB 1 of 2010) (the Principal Determination), which determines a number of therapeutic groups and the listed drugs that are in those therapeutic groups.

The purpose of this amending instrument, which is required by subsection 84AG(4) of the Act, is to remove from its therapeutic group, each listed drug which has at least one listed brand to which section 99ADH will apply on 1 December 2013. Section 99ADH deals with price disclosure price reductions. This amending determination is effective 1 December 2013.

This instrument amends Parts 7 and 8 of Schedule 1 to the Principle Determination. Part 7 sets out the Statins HP group (the HMG Co-A reductase inhibitor higher potency group). This instrument removes the listed drug ‘Atorvastatin’ from this group. Part 8 sets out the Venlafaxine group (the Venlafaxine and Venlafaxine derivative antidepressants group). This instrument removes the listed drug ‘Venlafaxine’ from this group.

Variation and revocation

Unless there is an express power to revoke or vary PB 1 of 2010 cited in this Instrument and explanatory statement, subsection 33(3) of the *Acts Interpretation Act 1901* is relied upon to revoke or vary PB 1 of 2010.

Consultation

This instrument is consequential to price disclosure price reductions, is minor and machinery in nature and does not require any additional consultation.

This instrument commences on 1 December 2013.

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

National Health (Pharmaceutical Benefits – Therapeutic Groups) Amendment Determination 2013 (No. 4) (PB 77 of 2013)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This Legislative Instrument is made pursuant to subsection 84AG(1) of the *National Health Act 1953* (the Act), which relates to therapeutic groups. This instrument amends the *National Health (Pharmaceutical Benefits – Therapeutic Groups) Determination 2010* (PB 1 of 2010) (the Principal Determination) which determines a number of therapeutic groups and the listed drugs that are in those therapeutic groups. This instrument (the Amending Determination) amends the Principal Determination by removing the listed drug atorvastatin from the Statins-HP group (the HMG Co-A reductase inhibitor higher potency group) and the listed drug venlafaxine from the Venlafaxine group (the Venlafaxine and Venlafaxine derivative antidepressants group).

Human rights implications

This legislative instrument engages Article 2 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The Pharmaceutical Benefits Scheme is a benefit scheme which assists with advancement of this human right by providing for subsidised access by patients to medicines. The recommendatory role of the Pharmaceutical Benefits Advisory Committee (PBAC) ensures that decisions about subsidised access to medicines on the PBS are evidence-based.

Conclusion

This Legislative Instrument is compatible with human rights because it advances the protection of human rights.

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