



Tonga

**THERAPEUTIC GOODS (AMENDMENT)
ACT 2021**

Act 18 of 2021



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THERAPEUTIC GOODS (AMENDMENT) ACT 2021

Act 18 of 2021

AN ACT TO AMEND THE THERAPEUTIC GOODS ACT

I assent,
TUPOU VI,
28th October 2021.

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

1 Short Title and Interpretation

- (1) This Act may be cited as the Therapeutic Goods (Amendment) Act 2021.
- (2) In this Act, the Therapeutic Goods Act, as amended, shall be referred to as “the Principal Act”.

2 Section 13 amended

Section 13 of the Principal Act is amended –

- (a) in subsection (2), by deleting the phrase “as soon as practicable thereafter” and replacing it with “within 3 days of the date of such medicinal drugs being seized”;
- (b) by inserting the following new subsection (3) immediately at the end of subsection (2) –
 - “(3) Any customs officer who fails to comply with the requirement under subsection (2) commits an offence and shall be liable upon

conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding 2 years or both.”.

3 New Part VIA inserted

The Principal Act is amended by inserting the following new Part VIA immediately after Part VI –

“PART VIA – REGULATION OF SUPPLY OF TARGETED METHAMPHETAMINE PRECURSOR PRODUCTS

23A Definitions

In this Part, unless the context otherwise requires –

“**authorised supplier**” means a person authorised under section 23B to supply targeted methamphetamine precursor products;

“**targeted methamphetamine precursor product**” means a product that contains ephedrine or pseudoephedrine and may be marketed or distributed lawfully in the Kingdom as a non-prescription drug. Every reference in this Part to ephedrine or pseudoephedrine includes each of the salts, optical isomers and salts of optical isomers of such chemical.

23B Authorised supplier

The Minister of Health may by notice in the Gazette, appoint any person as an authorised supplier of targeted methamphetamine precursor products.

23C Supply of targeted methamphetamine precursor products

- (1) Only an authorised supplier shall supply targeted methamphetamine precursor products within the Kingdom.
- (2) Any unauthorised person who supplies any targeted methamphetamine precursor products commits an offence and shall be liable upon conviction to a fine not exceeding \$50,000 or to imprisonment for any term not exceeding 7 years or both.

23D Prohibition of supply to minors

Any person who knowingly without lawful excuse, the proof of which shall lie on him, supplies any targeted methamphetamine precursor products to any person under the age of 18 years commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or both.

23E Restrictions on purchase or acquisition of targeted methamphetamine precursor products

- (1) Any person who knowingly without lawful excuse, the proof of which shall lie on him, purchases, obtains or otherwise acquires during a 30 day period, any targeted methamphetamine precursor products containing an aggregate of more than 7 grams of

- ephedrine or pseudoephedrine, commits an offence and shall be liable upon conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 7 years or both.
- (2) Nothing in this section shall prevent a person from obtaining targeted methamphetamine precursor products exceeding the ephedrine or pseudoephedrine quantity in subsection (1) on prescription.
 - (3) Subject to subsection (1) no authorised supplier shall supply any targeted methamphetamine precursor products to any person unless the person –
 - (a) provides a photo identification showing the person's full name, date of birth and photograph; and
 - (b) signs a record documenting –
 - (i) the full name and address of the person;
 - (ii) date of the transaction;
 - (iii) brand and product name; and
 - (iv) the total quantity of ephedrine or pseudoephedrine in the product.
 - (4) Any authorised supplier who fails to comply with the requirements under subsection (3) commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or both.
 - (5) Any person who, in order to purchase, obtain or otherwise acquire any targeted methamphetamine precursor products,
 - (a) knowingly uses or provides identification of another person; or
 - (b) knowingly uses or provides a fictitious or unlawfully altered identification; or
 - (c) otherwise knowingly provides false information,commits an offence and shall be liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or both.

23F Record keeping by authorised supplier

- (1) An authorised supplier shall make an accurate record of the supply of targeted methamphetamine precursor products setting out the details in section 23E(3)(b) and maintain a written or electronic record of such supply.
- (2) The record in subsection (1) shall be kept confidential, maintained for not less than 5 years, and made available for inspection and copying by any police officer upon request of that officer.

- (3) Any authorised supplier who fails to comply with the requirements under this section commits an offence and shall be liable upon conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 7 years or both.

23G Storage of targeted methamphetamine precursor products behind-the-counter

An authorised supplier shall store or place all targeted methamphetamine precursor products behind-the-counter or any other place located in the facility to which the public do not have direct access.

23H Other general offence

Any person who knowingly purchase, obtain or otherwise acquire a targeted methamphetamine precursor products for a third party for the purpose of evading this Part of the Act commits an offence and shall be liable upon conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 7 years or both.

23I Exemptions

- (1) Any person whose lawful occupation or profession requires the possession, supply or use of targeted methamphetamine precursor products is exempted from the offences under this Act provided that such possession, supply or administration is for the specific purpose of their lawful occupation.
- (2) Notwithstanding any provision in this Part, it is lawful for –
- (a) a person to provide a small quantity of targeted methamphetamine precursor products to immediate family or household members for lawful medical purposes;
 - (b) a person to receive a small quantity of targeted methamphetamine precursor products from immediate family or household members for lawful medical purposes.
- (3) For the purpose of subsection (2), “small quantity” means a quantity that is equal to or less than the manufacturer’s recommended dosage or the dosage prescribed by prescription.”.

Passed by the Legislative Assembly this 26th day of **August** 2021.