



**LEGISLATION ADVISORY COMMITTEE**

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6 March 2012

Chair  
Health Select Committee  
Parliament Buildings  
P O Box 18 041  
Wellington 6160

**Natural Health Products Bill**

1. This submission is made by the Legislation Advisory Committee (LAC).
2. The LAC was established to provide advice to the Government on good legislative practice, legislative proposals, and public law issues. The LAC has produced and updates the Legislation Advisory Committee Guidelines: Guidelines on the Process and Content of Legislation (LAC Guidelines) as appropriate benchmarks for legislation. The LAC Guidelines have been adopted by Cabinet.
3. The terms of reference of the LAC include:
  - (a) to scrutinise and make submissions to the appropriate body on aspects of Bills introduced into Parliament that affect public law or raise public law issues:
  - (b) to help improve the quality of law-making by attempting to ensure that legislation gives clear effect to government policy, ensuring that legislative proposals conform with the LAC Guidelines, and discouraging the promotion of unnecessary legislation.
4. The LAC considered the Bill at its meeting on 15 February 2012.

*The Natural Health Products Regulatory Authority: exemptions and reasons for decisions*

5. The Bill establishes a Natural Health Products Regulatory Authority (the Authority). The Authority has powers to:
  - exempt a natural health product or category of product from the requirement to complete product notification (clause 14)
  - audit any product notification or class of product notification (clause 15)
  - suspend and cancel a product notification (clause 16)
  - declare a substance to be a prohibited natural health product ingredient (clause 21)
  - publish statements relating to natural health products (clause 43)
  - require the recall of natural health products (clause 44)
  - revoke or suspend licence or certificate for non-compliance with code (clause 34)
6. Clause 14: The Committee may wish to consider whether it would be useful to include criteria and guidance as to exemptions.  
Clause 16: The Committee may wish to consider whether the Authority should provide the reasons for its decision to the Sponsor.

*Appeal and Review Issues*

7. Clause 41 establishes a Natural Health Products Appeals Committee. The Committee may wish to consider whether it would be advantageous to state explicitly whether it is possible to appeal on the determination, facts and so on.
8. Clause 42(3): Is the intention to exclude fact based appeals? If so, should this clause say so?  
Clause 41(2): The Committee may wish to consider whether it would be preferable to appoint the Appeals Committee expressly for a term subject to good behaviour rather than terms of employment being determined by the Minister. Compare with section 9 of the Medicines Act which provides that the Medicines Classification Committee members shall hold office for terms.

*Independence of Advisory Panel*

9. To achieve its purpose the Bill provides for the establishment of a Natural Health Products Regulatory Authority (the Authority) within the Ministry of Health (Clause 8). The Authority is the Director General. The Authority is required to establish an advisory committee to provide expert advice to it, and also to establish and maintain a natural health products database. The approach is essentially similar to that in the Medicines Act.
10. The Committee may wish to note that the Director-General can appoint people subject to terms and conditions of his or her making. Given the importance of the determinations there is a question whether there might be more safeguards for the independence of the Committee.
11. The LAC does not wish to be heard in support of the submission.

*Grant Hammond.*

Sir Grant Hammond  
Chair  
Legislation Advisory Committee

