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**ACT**  
**of 6 December 2007**  
**on Pharmaceuticals and on Amendments to Some Related Acts (the Act on**  
**Pharmaceuticals)**

The Parliament has adopted this Act of the Czech Republic:

**PART ONE**  
**MEDICINAL PRODUCTS**

**TITLE ONE**  
**INTRODUCTORY PROVISIONS**

**Part 1**  
**Scope**

**Section 1**

(1) This Act incorporates the relevant regulation of the European Communities (hereinafter referred to as the “Communities”)<sup>1)</sup> and stipulates, with a view to directly applicable regulations of the Communities<sup>2)</sup>

- a) the research, manufacture, preparation, distribution, control, and elimination of medicinal products and active substances (hereinafter referred to as “pharmaceuticals”);
- b) the marketing authorisation, post-marketing surveillance, prescribing and supply of medicinal products, sale of selected medicinal products, and the provision of information;
- c) international cooperation in the assurance of public health protection and the development of a uniform market of medicinal products in the Communities;
- d) record-keeping on the activities listed under letters a) and b).

(2) This Act has been published in compliance with Directive 98/34/EC of the European Parliament and of the Council of June 22 1998 laying down the procedure for the provision of information in the field of technical standards and regulations for information society services, as amended by Directive 98/48/EC.

<sup>1)</sup> Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use, as amended by Directive 2002/98/EC, Directive 2003/63/EC, Directive 2004/24/EC, Directive 2004/27/EC and Regulation (EC) 1901/2006 of the European Parliament and of the Council.

Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products, as amended by Directive 2004/28/EC.

Directive 2001/20/EC of the European Parliament and of the Council of 4 April 2001 on the approximation of the laws, regulations and administrative provisions of the Member States relating to implementation of good

clinical practice in the conduct of clinical trials on medicinal products for human use, as amended by Regulation (EC) 1901/2006 of the European Parliament and of the Council.

Commission Directive 2005/28/EC of 8 April 2005 laying down principles and detailed guidelines for good clinical practice as regards investigational medicinal products for human use, as well as the requirements for authorisation of the manufacturing or importation of such products.

Commission Directive 2003/94/EC of 8 October 2003, laying down the principles and guidelines of good manufacturing practice in respect of medicinal products for human use and investigational medicinal products for human use.

Directive 2002/98/EC of the European Parliament and of the Council of 27 January 2003, setting standards of quality and safety for the collection, testing, processing, storage and distribution of human blood and blood components and amending Directive 2001/83/EC.

Commission Directive 2004/33/EC of 22 March 2004, implementing Directive 2002/98/EC of the European Parliament and of the Council as regards certain technical requirements for blood and blood components.

Commission Directive 2005/61/EC of 30 September 2005, implementing Directive 2002/98/EC of the European Parliament and of the Council, as regards traceability requirements and notification of serious adverse reactions and events.

Commission Directive 2005/62/EC of 30 September 2005, implementing Directive 2002/98/EC of the European Parliament and of the Council as regards Community standards and specifications relating to a quality system for blood establishments.

Commission Directive 91/412/EEC of 23 July 1991, laying down the principles and guidelines of good manufacturing practice for veterinary medicinal products.

Council Directive 90/167/EEC of 26 March 1990, laying down the conditions governing the preparation, placing on the market and use of medicated feedingstuffs in the Community.

Directive 2004/9/EC of the European Parliament and of the Council of 11 February 2004 on the inspection and verification of good laboratory practice (GLP).

Directive 2004/10/EC of the European Parliament and of the Council of 11 February 2004 on the harmonisation of laws, regulations and administrative provisions relating to the application of the principles of good laboratory practice and the verification of their applications for tests on chemical substances.

Council Directive 2001/18/EC of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC.

Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products.

Council Directive 2003/85/EC of 29 September 2003 on Community measures for the control of foot-and-mouth disease repealing Directive 85/511/EEC and Decisions 89/531/EEC and 91/665/EEC and amending Directive 92/46/EEC.

<sup>2)</sup> Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004, laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency, as amended by Regulation (EC) No 1901/2006 of the European Parliament and of the Council.

Regulation (EC) No 1901/2006 of the European Parliament and of the Council of 12 December 2006 on medicinal products for paediatric use and amending Regulation (EEC) No 1768/92, Directive 2001/20/EC, Directive 2001/83/EC and Regulation (EC) No 726/2004.

Council Regulation (EC) No 141/2000 of 16 December 1999 on orphan medicinal products.

Council Regulation (EEC) No 2377/90 of 26 June 1990, laying down a Community procedure for the establishment of maximum residue limits of veterinary medicinal products in foodstuffs of animal origin, as amended.

Council Regulation (EEC) No 339/93 of 8 February 1993 on checks for conformity with the rules on product safety in the case of products imported from third countries.

Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition.

## **Part 2**

### **General Provisions**

## Section 2

(1) A medicinal product shall mean

- a) a substance or combination of substances presented as having therapeutic or preventive properties in the case of human or animal diseases; or
- b) a medicinal product shall also mean any substance or combination of substances which may be used or administered to human beings or used or administered to animals with a view to restoring, correcting or modifying the physiological functions by means of a pharmacological, immunological or metabolic effect or with a view to making a medical diagnosis.

(2) Medicinal products set forth in paragraph 1 shall be:

- a) human medicinal products intended for use or administration to human beings;
- b) veterinary medicinal products intended for use or administration to animals; veterinary medicinal products shall mean medicated feedingstuffs, and not additives<sup>3)</sup>,
- c) human immunological medicinal products consisting of vaccines, toxins, serums or allergen products; the list of vaccines, toxins, serums and allergen products is stipulated by the implementing legal regulation;
- d) veterinary immunological medicinal products administered in order to produce active or passive immunity or to diagnose the state of immunity;
- e) human autogenic vaccines prepared for a specific patient from pathogens or antigens obtained exclusively from this patient;
- f) veterinary autogenic vaccines, which shall mean inactivated immunological veterinary medicinal products which are manufactured from pathogens and antigens obtained from an animal or animals from a holding and used for the treatment of an animal or the animals of that holding in the same locality;
- g) homeopathic products prepared from homeopathic stocks in accordance with a homeopathic manufacturing procedure described by the European Pharmacopoeia<sup>4)</sup> or, in absence thereof, by the pharmacopoeia currently used officially in at least one Member State of the Community (hereinafter referred to as the "Member State"); a homeopathic product shall be regarded a medicinal product although it does not bear in full the properties of medicinal products and substances contained therein are not always substances with proven therapeutic effect;
- h) radiopharmaceuticals, which shall mean medicinal products which, when ready for use, contain one or more radionuclides (radioactive isotopes) included for a medicinal purpose;
- i) radionuclide generators shall mean systems incorporating a fixed parent radionuclide from which is produced a daughter radionuclide which is to be obtained by elution or by any other method and is used as a radiopharmaceutical or for the preparation thereof;
- j) kits, which shall mean preparations to be reconstituted or combined with radionuclides in the final radiopharmaceutical, usually prior to its administration;
- k) radionuclide precursors, which shall mean radionuclides produced for the radio-labelling of another substance prior to administration;
- l) blood derivatives which shall mean industrially prepared medicinal products derived from human blood or human plasma; blood derivatives; include, in particular, albumin, coagulating factors, and immunoglobulins of human origin;
- m) vegetable medicinal products containing as active ingredients at least one vegetable substance or at least one vegetable preparation or at least one vegetable substance in combination with at least one vegetable preparation;

- n) transfusion products which shall mean human blood and its constituents processed for administration to human beings by means of a transfusion intended for the treatment or preventing of a disease, unless blood derivatives are concerned; pursuant to this Act, human blood and its constituents shall not mean blood stem cells;
- o) selected medicinal products which may, in accordance with the marketing authorisation, be sold without a medical prescription outside pharmacies.

(3) A substance shall mean any matter irrespective of origin which may be:

- a) human, e.g. human blood, its constituents, and human blood products;
- b) animal, e.g. micro-organisms, toxins, whole animals, parts of organs, animal secretions, extracts or blood products;
- c) vegetable; or
- d) chemical.

(4) Substances set forth in paragraph 3 shall mean, in particular:

- a) active substances intended to be part of the medicinal product, which initiate the effect of the product; this effect is usually pharmacological, immunological or modifies the metabolism;
- b) excipients which are, in the quantities applied, without any therapeutic effect of their own and:
  - 1. enable or facilitate the manufacture, preparation, and storage of medicinal products or their application, or
  - 2. have a positive effect upon the pharmacokinetic properties of active substances contained in medicinal products.

(5) A pre-mix for medicated feedingstuffs (hereinafter referred to as “medicated pre-mix”) shall mean any veterinary medicinal product subjected to marketing authorisation which is intended solely for the manufacture of medicated feedingstuffs.

(6) A medicated feedingstuff shall mean any mixture of a medicated pre-mix or medicated pre-mixes and feed or feeds which is intended for marketing and intended to be fed to animals without further processing or modification.

<sup>3)</sup> Regulation (EC) No 1831/2003 of the European Parliament and of the Council

<sup>4)</sup> Convention on the elaboration of a European Pharmacopoeia and Protocol to the Convention on the elaboration of a European Pharmacopoeia, published under no. 255/1998 Coll.

### **Section 3**

(1) A Summary of the Product Characteristics (SPC) shall mean a written summary of information about a medicinal product which forms part of the marketing authorisation of the medicinal product and contains information essential for the proper use of the product.

(2) For the purposes of this Act, a withdrawal period shall mean the period between the last administration of the medicinal product to animals in compliance with this Act and under normal conditions of use of the relevant product and the moment of allowed production of foodstuffs from such animals. This period is established within the scope of public health protection so as to ensure that foodstuffs obtained in this manner do not contain residues of

pharmacologically active substances in quantities in excess of the maximum limits laid down in a directly applicable Community regulation<sup>5)</sup>.

(3) Pharmacovigilance shall mean supervision over medicinal products aimed at ensuring maximum safety and the best practicable risk-benefit ratio of the medicinal product. Pharmacovigilance represents namely the collection of information relevant to the safety of the medicinal product, including any information obtained from clinical trials, their evaluations and adoption of appropriate measures.

(4) For the purposes of this Act, an adverse reaction to a medicinal product shall mean an adverse and unintended response to the product administration which occurs at doses normally used for the prophylaxis, therapy or diagnosis of a disease or for the restoration, correction or other modification of physiological functions; where clinical trials on medicinal products are concerned, it shall mean an adverse and unintended reaction to any administered dose. This definition shall not apply to transfusion products. Adverse reactions to medicinal products shall be classified, in particular, as:

- a) serious adverse reactions which result in death, are life-threatening, require hospitalisation or prolongation of existing hospitalisation, result in persistent or significant disability or incapacity or are demonstrated as a congenital anomaly or birth defect in offsprings;
- b) unexpected adverse reactions the nature, severity or consequences of which are not consistent with the information laid down in the summary of the product characteristics for an authorised medicinal product or which are not consistent with available information, e.g. the investigator's brochure for an investigational medicinal product without marketing authorisation;
- c) human adverse reactions related to the use of a veterinary medicinal product, which are noxious and unintended and which occur in a human being following exposure to a veterinary medicinal product.

(5) For the purposes of this Act, an adverse event shall mean an adverse change to the health affecting a patient or trial subject who is the recipient of a medicinal product, with the exception of transfusion products, even if it is not known whether a causal relationship with the treatment by this product exists.

(6) For the purposes of this Act, a serious adverse event shall mean such adverse event that results in death, is life-threatening, requires hospitalisation or prolongation of existing hospitalisation, results in persistent or significant disability or incapacity or is demonstrated as a congenital anomaly or birth defect in offsprings, irrespective of the administered dose of the medicinal product.

(7) For the purposes of this Act, a post-authorisation safety study shall mean a pharmacoepidemiological study or a clinical trial carried out in compliance with the terms of the marketing authorisation, conducted with the aim of identifying or quantifying a safety hazard relating to an authorised medicinal product.

(8) For the purposes of this Act, a risk associated with the use of a medicinal product shall mean

- a) a risk to the health of a human being, to public health or to the health of an animal associated with the quality, safety, and efficacy of the medicinal product, or
- b) a risk of adverse environmental impact.

(9) A risk-benefit ratio shall mean the evaluation of positive therapeutic effects of the medicinal product related to the risks defined in paragraph 8. The risk-benefit ratio is favourable, if the benefit of use of the medicinal product outweighs the risk associated with its use.

(10) Haemovigilance shall mean a set of organised surveillance procedures over transfusion products and raw materials from blood and its components for further production (hereinafter referred to as the “raw material for further production”) relating to serious adverse or unexpected events or reactions in donors or recipients, and the epidemiological follow-up of donors.

(11) For the purposes of this Act, a serious adverse reaction shall mean an unintended response of a donor or patient related to the collection of blood or its component or a transfusion of a transfusion product that results in death, is life-threatening, debilitating or results in incapacity or causes hospitalisation or disease or prolongation thereof.

(12) For the purposes of this Act, a serious adverse event shall mean an adverse occurrence related to the collection, examination, processing, storage, distribution or supply of a transfusion product and distribution of a raw material for further production which might result in death, be life-threatening or damage health or cause the patient's incapacity or which results in hospitalisation or disease or prolongation thereof.

<sup>5)</sup> Council Regulation (EEC) No 2377/90.

#### **Section 4**

(1) The name of a medicinal product shall mean the name, which may be either an invented name that cannot be confused with the common name, or a common or scientific name, together with the name or trade mark of the marketing authorisation holder. A common name shall mean the international non-proprietary name recommended by the World Health Organisation or, if one does not exist, the commonly used name.

(2) A strength of the medicinal product shall mean the content of the active substances expressed quantitatively per dosage unit, per unit of volume or weight according to the pharmaceutical form.

(3) An immediate packaging shall mean the form of packaging immediately in contact with the medicinal product. An outer packaging shall mean the packaging into which the immediate packaging is placed. Labelling shall mean the information shown on immediate or outer packaging.

(4) A package leaflet shall mean written information for the user which is part of the medicinal product.

(5) For the purposes of this Act, a batch shall mean a quantity of the product manufactured or prepared within a single production cycle or procedure or homogenised during preparation or manufacture. Uniformity of all units of the product contained in the relevant batch is the fundamental principle of a batch.

(6) A blood establishment shall mean a healthcare facility collecting and testing human blood or its components, if intended for transfusion or processing for any purpose and which, furthermore, processes human blood or its components in order to obtain transfusion products or raw materials for further production of medicinal products, including controls and release, and, moreover, their storage and distribution. A blood bank shall not be considered a blood establishment.

(7) A blood bank shall mean an organisational unit of a healthcare facility which stores and supplies transfusion products, exclusively for use within the healthcare facility, or which conducts pre-transfusion immuno-haematology testing, if applicable. The procedure governing the supply of transfusion products is stipulated by an implementing legal regulation.

## **Section 5**

(1) For the purposes of this Act, handling of pharmaceuticals shall mean their research, preparation, treatment, control, manufacture, distribution, storage and keeping, supply and transportation, offering for the purpose of sale, dispensing, sale, holding for entrepreneurial purposes, provision of promotion samples, use of pharmaceuticals in the provision of health care or veterinary care, or the disposal of pharmaceuticals.

(2) Research of pharmaceuticals shall, for the purposes of this Act, mean non-clinical safety evaluations of pharmaceuticals and clinical trials on medicinal products with the aim to evidence their efficacy, safety, and quality.

(3) Preparation of medicinal products shall mean their preparation in a pharmacy or at other workplaces where medicinal products may be prepared pursuant to Section 79, paragraph 2.

(4) Treatment of medicinal products shall mean such procedure which is applied to:

a) medicinal products subjected to marketing authorisation prior to their dispensing or use in the delivery of health care or veterinary care and in compliance with the summary of the product characteristics or with the information of the manufacturer where procedure as per Section 8, paragraphs 3 to 5 or conditions established by a specific therapeutic programme are concerned;

b) investigational medicinal products prior to their use within a clinical trial, in compliance with the protocol and approved procedures of the clinical trial;

procedures stipulated under letters a) or b), which are inadequately demanding or hazardous, despite the fact they satisfy the features of preparation as per these letters, shall be considered preparation; the list of such procedures is stipulated by the implementing legal regulation.

(5) Distribution of medicinal products shall mean all activities consisting of procuring, holding, supplying, including the supplying of medicinal products within the Community and exporting to countries other than the Member States (hereinafter referred to as “third countries”), including the relevant business transfers irrespective of whether or not the activity is conducted for consideration or not. Distribution activities are carried out in co-operation with manufacturers, other distributors or pharmacies and other persons authorised to dispense medicinal products to the public or, where applicable, to use the medicinal products. A distribution of medicinal products shall not mean the dispensing of medicinal products, their sale by a vendor of selected medicinal products, and their use in the delivery of health care

and veterinary care, or the distribution of transfusion products to blood centres and the distribution of raw materials for further production to blood centres. Distribution of medicinal products shall not be considered the import of medicinal products from third countries, either.

(6) Dispensing of medicinal products shall mean their provision under the conditions stipulated by Section 82, paragraph 2. The dispensing of medicinal products shall also mean their mail-order delivery under the conditions stipulated by Sections 84 to 87. For transfusion products, dispensing shall mean the provision of the transfusion product to a healthcare facility by a blood centre or a blood bank for the purposes of transfusion to a specific recipient. This provision shall be without prejudice to the legal regulations governing value added tax and consumer protection<sup>6)</sup>.

(7) Sale shall mean the sale, purchase or storage of selected medicinal products.

(8) The use of medicinal products in the delivery of:

a) health care shall mean their administration to the patient upon the delivery of this care or, where applicable, supplying the patient with the necessary quantities of medicinal products upon discharge from an inpatient facility<sup>7)</sup> or transfer to another healthcare facility or upon the delivery of health care by a general practitioner for adults or for children & adolescents, by a medical doctor on emergency duty or by a medical doctor of emergency medical rescue service,

b) veterinary care shall mean their supplying to the breeders for the purpose of subsequent administration to animals or their direct administration to animals under the conditions stipulated by this Act and by legal regulations<sup>8)</sup>.

(9) Pursuant to this Act, marketing of pharmaceuticals shall mean the supplying of pharmaceuticals to persons listed under Section 77, paragraph 1 (c), items 2 to 7 and 10, dispensing of medicinal products, incl. the dispensing of transfusion products, distribution of transfusion products, sale of selected medicinal products, and the use of medicinal products in the delivery of health or veterinary care.

(10) Placing of a medicated feedingstuff on the market shall mean the holding of the medicated feedingstuff for sale or provision in any other form whatever to third parties or actual sale or provision of a medicated feedingstuff to third parties whether or not for consideration.

(11) Abuse of medicinal products shall, for the purposes of this Act, mean intentional excessive use of medicinal products or intentional use of medicinal products which is inconsistent with the intended purpose of use, including, if applicable, use after their subsequent processing accompanied by harmful effects on the body, including harmful psychological effects.

(12) Off-label use of a veterinary medicinal product shall mean the use of a veterinary medicinal product that is not consistent with the summary of the product characteristics. For the purposes of control of use, prescribing and dispensing of medicinal products in the delivery of veterinary care and pharmacovigilance, off-label use of a veterinary medicinal product shall mean also the misuse or abuse of the product.

<sup>6)</sup> Section 58 of Act No 235/2004 Coll., on Value Added Tax, as amended  
Section 12 of Act No 634/1992 Coll., on Consumer Protection, as amended.



Section 13 of Act No 526/1990 Coll., on Prices, as amended.

<sup>7)</sup> Act No 48/1997 Coll., on Public Health Insurance and Amendments to Some Related Acts, as amended.

<sup>8)</sup> Act No 166/1999 Coll., on Veterinary Care and Amendments to Some Related Acts (Veterinary Act), as amended.

Act No 246/1992 Coll., on Protection of Animals against Cruelty, as amended.

## **Section 6**

(1) For the purposes of this Act, an operator shall mean

- a) a manufacturer of medicinal products, a person importing medicinal products from third countries, a blood centre, an operator of a control laboratory, a manufacturer of active substances and a manufacturer of excipients;
- b) a distributor of medicinal products (hereinafter referred to as the "distributor");
- c) a person authorised to deliver health care as per special legal regulations<sup>9)</sup> (hereinafter referred to as the "healthcare facility");
- d) a person authorised to deliver veterinary care as stipulated by a legal regulation<sup>10)</sup>,
- e) a person organising or conducting research of pharmaceuticals, or
- f) a vendor of selected medicinal products.

(2) For the purposes of this Act, good manufacturing practice shall mean a set of rules which ensure that the manufacture and control of pharmaceuticals, or, where applicable, the manufacture of excipients as per Section 70 are conducted in compliance with the quality requirements, the intended use, and relevant documentation.

(3) For the purposes of this Act, good distribution practice shall mean a set of rules which ensure that the distribution of pharmaceuticals, or excipients, where applicable, is conducted in compliance with the quality requirements, the intended use, and relevant documentation.

(4) For the purposes of this Act, good laboratory practice shall mean a quality assurance system concerned with the organisational process and the conditions under which the non-clinical safety studies on pharmaceuticals are planned, performed, controlled, recorded, reported, and archived.

(5) For the purposes of this Act, good pharmaceutical practice shall mean a set of rules which ensure that the preparation, treatment, control, storage, and dispensing of medicinal products are conducted in compliance with the requirements governing their quality, safety, efficacy, and provision of information to patients, consistent with the intended use of medicinal products and relevant documentation.

(6) For the purposes of this Act, good practice of the vendors of selected medicinal products shall mean a set of rules which ensure that the sale of selected medicinal products is conducted in compliance with the requirements governing the quality, safety, and efficacy of selected medicinal products and in compliance with their intended use.

<sup>9)</sup> Act No 160/1992 Coll., on Health Care in Non-State Healthcare Facilities, as amended.

Act No 20/1966 Coll., on the Care of the People's Health, as amended.

Act No 258/2000 Coll., on Public Health Protection and on Amendments to Some Related Acts, as amended.

<sup>10)</sup> Section 58 of Act No 166/1999 Coll., as amended by Act No 131/2003 Coll.

## **Section 7**

- (1) Persons handling pharmaceuticals shall be obliged to:
- a) ensure the maximum benefit of pharmaceuticals in their use and reduce unfavourable consequences of the effects of the pharmaceuticals on the health of human beings and on public health, on the health of animals and on the environment to the lowest practicable level;
  - b) follow the instructions for handling medicinal products in compliance with the summary of the product characteristics; this shall not apply to the use of medicinal products pursuant to Section 8, paragraphs 3 to 5, or pursuant to Section 9, paragraph 2 or 5 where the use of veterinary medicinal products is concerned.
- (2) The activities involving the handling of pharmaceuticals may be conducted only by persons authorised for the given activity pursuant to this Act.

### **Part 3**

#### **Use of medicinal products in the delivery of health care and veterinary care**

##### **Section 8**

##### **Use of medicinal products in the delivery of health care**

- (1) Unless hereinafter specified otherwise, only authorised human medicinal products as stipulated in Section 25 may be prescribed, placed on the market, and used in the delivery of health care. Supplying the patient with medicinal products in the delivery of health care pursuant to Section 5, paragraph 8 (a) shall be permissible only where the condition of the patient by necessity requires immediate use of the medicinal product and where a timely dispensing of the medicinal product on medical prescription is not feasible due to the unavailability of pharmaceutical care at the given place or in the given time; the method of supplying patients with medicinal products in the delivery of health care is stipulated by the implementing legal regulation.
- (2) Furthermore, medicinal products prepared in a pharmacy and at other workplaces authorised to prepare medicinal products as stipulated by Section 79, paragraph 2, and transfusion products manufactured in blood centres may be prescribed and used in the delivery of health care.
- (3) In the delivery of health care to individual patients, the attending medical doctor may, in order to provide optimal health care, prescribe or use also medicinal products not authorised pursuant to this Act, where:
- a) no medicinal product of adequate composition or similar therapeutic properties, for which a marketing authorisation exists, is distributed or marketed in the Czech Republic;
  - b) a medicinal product which has been authorised abroad is concerned;
  - c) the relevant method has sufficient scientific validation, and
  - d) the medicinal product does not contain a genetically modified organism<sup>11)</sup>.
- (4) If a medicinal product is not distributed or if a medicinal product of the required therapeutic properties is not marketed, the attending medical doctor may use an authorised medicinal product in a manner which is not consistent with the summary of the product characteristics, if sufficient scientific grounds exist for the application of such method.

(5) Pursuant to legal regulations<sup>9)</sup>, the operator of a healthcare facility shall be responsible for any injury to the health or death of a human being due to the use of a non-authorized medicinal product or due to the use of an authorized medicinal product in a manner stipulated in paragraph 4. Where the attending medical doctor intends to prescribe or use a non-authorized medicinal product in a manner stipulated in paragraph 4, he/she shall inform the patient, or the guardian of this fact and of the consequences of the treatment. Where the condition of the patient does not allow for the patient to be informed in this manner, the attending medical doctor shall do so after the use of the medicinal product as soon as practicable with respect to the condition of the patient. Where a prescription of a non-authorized medicinal product is concerned, the attending medical doctor shall state this fact in the medical prescription. The attending medical doctor shall forthwith notify the State Institute for Drug Control of the prescribing or use of the non-authorized medicinal product. The method and scope of the notification of the prescribing of a non-authorized medicinal product to the State Institute for Drug Control is stipulated by the implementing legal regulation. Where a radiopharmaceutical is concerned, the State Institute for Drug Control shall inform the State Office for Nuclear Safety of the use of the non-authorized radiopharmaceutical brought to its attention.

(6) In the case of suspected or confirmed spreading of disease-producing agents, toxins, chemical substances or in the case of suspected or confirmed radiation accident or disaster which might severely affect public health, the Ministry of Health may exceptionally by its decision issued following an application for an expert opinion of the State Institute for Drug Control temporarily authorise the distribution, dispensing and use of a non-authorized human medicinal product or an off-label use of an authorized medicinal product. In such a case the marketing authorisation holders, manufacturers of medicinal products and healthcare professionals shall not be responsible for the consequences implied by such use of the medicinal product. This shall apply regardless of the fact whether marketing authorisation pursuant to Section 25, paragraph 1 has or has not been granted. The responsibility for defects of medicinal products as stipulated by a special legal regulation<sup>12)</sup> shall not be prejudiced. The State Institute for Drug Control shall inform about the measure issued by the Ministry of Health. The Ministry of Health shall publish the issued measure on its official notice board and the State Institute for Drug Control shall publish it in a manner allowing for remote access, including, if applicable, in the Bulletin of the State Institute for Drug Control.

(7) The provisions of this Act shall be without prejudice to the provisions of the legal regulation stipulating the radiation protection of persons undergoing medical examinations or treatment, or rules laying down the essential safety standards for the health protection of the general public and workers against the dangers of ionising radiation<sup>13)</sup>.

<sup>11)</sup> Act No 78/2004 Coll., on the Use of Genetically Modified Organisms and Genetic Products, as amended by Act No 346/2005 Coll.

<sup>12)</sup> Act No 59/1998 Coll., on the Liability for Damage Caused by a Product's Defectiveness, as amended by Act No 209/2000 Coll.

<sup>13)</sup> Act No 18/1997 Coll., on Peaceful Utilisation of Nuclear Energy and Ionising Radiation (the Atomic Act), and on Amendments and Additions to Related Acts, as amended.

## **Section 9**

### **Use of medicinal products in the delivery of veterinary care**

(1) Unless stipulated otherwise by this Act, in the delivery of veterinary care only:

- a) veterinary medicinal products authorised in compliance with Section 25, including authorised medicated premixes in the form of medicated feedingstuffs manufactured and marketed in compliance with this Act;
- b) veterinary autogenic vaccines which meet the requirements hereof;
- c) medicinal products prepared in a pharmacy for an individual animal in accordance with a prescription from a veterinarian;
- d) medicinal products prepared in compliance with the articles of Czech Pharmacopoeia and in a manner stipulated by the defined implementing legal regulation in a pharmacy or at a workplace of another healthcare facility authorised, in compliance with Section 79, paragraph 2 to prepare medicinal products;
- e) veterinary medicinal products authorised in another Member State in compliance with the Community regulation<sup>14)</sup> and in compliance with the conditions stipulated by Section 48;
- f) human medicinal products authorised in compliance with Section 25 may be prescribed, dispensed, or used.

(2) Furthermore, in the delivery of veterinary care:

- a) medicinal products for which the State Veterinary Administration has granted an exemption or
- b) non-authorised immunological veterinary medicinal products authorised under the conditions stipulated in Section 47, the use of which has been decided on by the European Commission (hereinafter referred to as the "Commission") in compliance with Community regulations regarding certain severe animal infections<sup>15)</sup> may be prescribed, dispensed, or used in accordance with the restrictions established by the competent authority pursuant to Section 46 or 47.

(3) Medicinal products listed under paragraph 1 and paragraph 2(a) may, in the delivery of veterinary care, be prescribed, dispensed or used only in compliance with the procedure stipulated by the implementing legal regulation. The implementing legal regulation defines such procedure separately for non-food-producing animals, including animals from the Equidae family declared, in compliance with the relevant Community regulations<sup>16)</sup>, not to be intended for slaughter for human food production purposes, and separately for food-producing animals. Furthermore, the implementing legal regulation stipulates the procedure for the use, dispensing or prescribing of other than authorised veterinary medicinal products, including veterinary medicinal products intended for off-label use in animals.

(4) A veterinary medicinal product for which the Institute for the State Control of Veterinary Biologicals and Medicaments has restricted, by means of its decision pursuant to Section 40, paragraph 4, the range of persons who are authorised to use veterinary medicinal products, may be used only by a veterinarian.

(5) Medicinal products listed under paragraph 1, letters (b) to (f) and paragraph 2 and authorised veterinary medicinal products used outside the scope of marketing authorisation may be administered only by a veterinarian authorised to appoint a breeder or a person authorised thereby to administer the medicinal product. The responsibility of the veterinarian for damages caused by the use of the medicinal product pursuant to sentence one shall not be prejudiced by the appointment of such person.

(6) Medicinal products containing thyreostatic substances, hormone substances or beta-antagonists may be prescribed or used for the purposes of delivery of veterinary care only if the conditions stipulated by a special legal regulation<sup>17)</sup> are complied with.

(7) Immunological veterinary medicinal products may be prescribed or used for the purposes of delivery of veterinary care only if their use is not in conflict with control or safeguard measures stipulated by veterinary care authorities pursuant to a special legal regulation<sup>18)</sup>.

(8) The restriction regarding maximum residue limits determined by a directly applicable Community regulation<sup>5)</sup> shall be applied to food-producing animals.

(9) The breeders of food-producing animals must, after the administration of the medicinal product, adhere to the withdrawal period defined in the marketing authorisation or determined in compliance with paragraph 10. Veterinarians who use, dispense or prescribe medicinal products shall be obliged to inform breeders of food-producing animals about the withdrawal period which must be observed.

(10) Unless the marketing authorisation of the medicinal product indicates a withdrawal period for the animal species or category concerned, the withdrawal period must be established in compliance with a special legal regulation<sup>18)</sup>. Where a medicinal product is administered to an animal from the Equidae family which is, in compliance with the relevant Community regulation<sup>16)</sup>, declared not to be intended for slaughter for human food production, and the medicinal product contains a substance defined by the Commission as necessary for the treatment of the Equidae, a withdrawal period of six months must be established. In the case of homeopathic veterinary products containing active principles listed under Annex II of the directly applicable Community regulation<sup>5)</sup> no withdrawal period shall be determined.

(11) Persons prescribing, dispensing or using medicinal products shall keep records of the prescribing, dispensing or use of medicinal products in the delivery of veterinary care. The records shall be kept for the minimum period of five years. The implementing legal regulation stipulates the method and content of this record-keeping.

(12) In the delivery of veterinary care, where entrepreneurial activities are concerned, medicinal products may be prescribed, dispensed or used only by veterinarians who meet the requirements governing the conduct of professional veterinary activities as per a special legal regulation<sup>19)</sup>. Where a prescription-only medicinal product is concerned, it may be prescribed, dispensed or used only in such quantity which is necessary for the concerned procedure or treatment. Breeders<sup>20)</sup> may, in compliance with the conditions stipulated by this Act and by legal regulations<sup>8)</sup>, administer medicinal products to animals which they own or for which they care.

(13) Persons residing or established<sup>21)</sup> in a Community Member State other than the Czech Republic, and who are, according to a special legal regulation<sup>19)</sup>, authorised to provide veterinary care within the territory of the Czech Republic, shall be entitled to use medicinal products within the scope established by the implementing legal regulation. The implementing legal regulation stipulates this scope with respect to the state of the marketing authorisation of medicinal products to be used, the method of transportation, the state of packaging and requirements for the composition of these medicinal products. Records referred to in paragraph 11 shall be kept about the usage of medicinal products. For this purpose, these persons shall be authorised to import to the territory of the Czech Republic medicinal products in quantities not exceeding a one-day consumption for the scope of the delivered veterinary care.

(14) For the use of authorised veterinary medicinal products to be administered in feedingstuffs at the concerned farm<sup>20)</sup>, unless veterinary immunological medicinal products are concerned, only such technological device which is part of the given farm and for which the relevant regional veterinary administration or the Municipal Veterinary Administration in Prague (hereinafter referred to as the “regional veterinary administration”) has specified veterinary conditions and measures in compliance with a special legal regulation<sup>18)</sup> may be used; where no such measures have been established for the relevant technological device, the breeder may use such device for the purposes of medication only after the regional veterinary administration, upon request from the breeder, establishes the veterinary conditions and measures.

(15) Breeders who as entrepreneurs breed food-producing animals and who hold medicinal products intended for the treatment of animals, shall be obliged to keep records of the manner they have obtained such medicinal products for the minimum period of five years. This applies also if the animals, for which such medicinal products have been intended, were slaughtered or are no longer in the holding of the concerned breeder.

<sup>14)</sup> Directive No 2001/82/EC of the European Parliament and of the Council, as amended by Directive No 2004/28/EC.

<sup>15)</sup> For example, Council Directive 2003/85/EC, Council Directive 92/66/EEC of 14 July 1992 introducing Community measures for the control of Newcastle disease, Council Directive 2002/60/EC of 27 July 2002, laying down specific provisions for the control of African swine fever and amending Directive 92/119/EEC as regards Teschen disease and African swine fever.

<sup>16)</sup> Commission Decision 93/623/EEC of 20 October 1993 establishing the identification document (passport) accompanying registered Equidae.  
Commission Decision 2000/68/EC of 22 December 1999, amending Commission Decision 93/623/EEC and establishing the identification of Equidae for breeding and production.

<sup>17)</sup> Section 19, paragraph 3 of Act No 166/1999 Coll., as amended by Act No 131/2003 Coll.

<sup>18)</sup> Act No 166/1999 Coll., as amended.

<sup>19)</sup> Sections 58 to 60 of Act No 166/1999 Coll., as amended by Act No 131/2003 Coll.

<sup>20)</sup> Section 3 of Act No 166/1999 Coll., as amended by Act No 131/2003 Coll.

<sup>21)</sup> Article 43 et seq. of the Treaty Establishing the European Community.

## **TITLE II PROCUREMENT OF PHARMACEUTICALS**

### **Part 1**

#### **Tasks of authorities performing state administration in the field of pharmaceuticals**

#### **Section 10**

##### **Performance of state administration**

(1) State administration in the sphere of human pharmaceuticals shall be performed by:

- a) The Ministry of Health;
- b) The Ministry of Interior;
- c) The Ministry of Justice;
- d) The Ministry of Defence;
- e) The Ministry of Finance;
- f) The State Institute for Drug Control;
- g) The Ministry of Environment;
- h) Customs authorities;
- i) The State Office for Nuclear Safety;
- j) Regional Authorities.

(2) State administration in the sphere of veterinary pharmaceuticals shall be performed by:

- a) The Ministry of Agriculture;
- b) The State Veterinary Administration;
- c) The Institute for the State Control of Veterinary Biologicals and Medicaments;
- d) Regional veterinary administrations;
- e) The Ministry Environment;
- f) Customs authorities;
- g) The State Office for Nuclear Safety;
- h) Regional Authorities.

## **Section 11**

### **Ministry of Health**

In the sphere of human pharmaceuticals, the Ministry of Health shall:

- a) decide about the issue of approval of the conduct of specific therapeutic programmes and perform supervision over these programmes;
- b) authorise the human use of active substances and excipients which are not included in the list established by the implementing legal regulation;
- c) take part in the preparation of the European Pharmacopoeia<sup>4)</sup> and be responsible for the organisation of its preparation and publishing in the Czech Republic, including the sphere of veterinary pharmaceuticals;
- d) publish Czech Pharmacopoeia which establishes the procedures and requirements for:
  - 1. the manufacture of active substances and excipients,
  - 2. the manufacture and preparation of medicinal products,
  - 3. testing and storage of active substances, excipients, and medicinal products;
- e) decide, on the first level, on administrative offences committed during distribution, import or export of transfusion products and plasma for the production of blood derivatives;
- f) publish in the Bulletin of the Ministry of Health and in a manner allowing for remote access:
  - 1. a list of persons authorised to dispose of unusable pharmaceuticals,
  - 2. a list of persons organising courses for vendors of selected medicinal products authorised in compliance with special legal regulations<sup>22)</sup>;
- g) decide on the assignment of the ethics committee to issue opinions on multi-centric clinical trials and it may establish an ethics committee pursuant to Section 53, paragraph 1 to issue opinions on a clinical trial on a human medicinal product;
- h) adopt measures to ensure the availability of medicinal products important for the delivery of health care and adopt measures aimed at the support of research into, development, and

availability of medicinal products designated as orphan medicinal products and products which may be categorised as such, as well as medicinal products for use in paediatrics;

i) take necessary measures to promote Community and Czech Republic's self-sufficiency in human blood or human plasma and adopt measures to prevent the risk of jeopardizing public health with regard to the use of human blood or human plasma;

j) take measures necessary for the development of manufacture and use of products derived from human blood and its components for voluntary unpaid donors to encourage the voluntary unpaid donation of human blood and its components; it shall notify the Commission of such measures starting from 8 February 2008 and once in every three years thereafter;

k) report to the Commission on activities carried out in respect of provisions relevant to the standards governing the quality and safety of drawing, testing, processing, storing, and distributing human blood, its components, transfusion products and raw materials for further production, starting from 31 December 2007, thereafter on 31 December 2009 and thereafter once in every three years, including a list of measures adopted in the sphere of inspection and control;

l) issue opinions on the need for a medicinal product with a view to public health protection for the purposes of taking over marketing authorisation from another country;

m) issue its approval of the appointment of representatives proposed by the State Institute for Drug Control to the Committees pursuant to a directly applicable Community regulation<sup>23)</sup> and to the Management Board of the European Medicines Agency<sup>24)</sup> (hereinafter referred to as the "Agency").

n) inform the State Institute for Drug Control of any abuse of medicinal products brought to its attention during the exercise of its powers;

o) issue temporary measures pursuant to Section 8, paragraph 6 to authorise the distribution, dispensing and use of a non-authorised medicinal product or an off-label use of an authorised medicinal product;

p) decide, where transfusion products are concerned, about the issuance of an approval of their distribution carried out between the Czech Republic and another Member State and their export to a third country and import from a third country, and publish the information on the decisions issued;

q) decide, where plasma for the production of blood derivatives is concerned and the collection is conducted in the Czech Republic, on the issue of an approval of its distribution into another Member State and export to a third country, and publish the information on the decisions issued.

<sup>22)</sup> Act No 455/1991 Coll., on Licensed Trades (Trade Licensing Act), as amended.  
Government Regulation No 140/2000 Coll., on the list of free trades, as amended.

<sup>23)</sup> For example, Council Regulation (EC) No 141/2000, Regulation (EC) No 726/2004 of the European Parliament and of the Council, and Regulation (EC) No 1901/2006 of the European Parliament and of the Council.

<sup>24)</sup> Regulation (EC) No 726/2004 of the European Parliament and of the Council.

## **Section 12**

### **Ministries of Interior, Justice, Defence, and Finance**

The Ministry of Interior, Ministry of Justice, Ministry of Defence, and Ministry of Finance shall execute state administration tasks stipulated by this Act in the sphere of control pursuant to Section 101 and imposition of penalties pursuant to Sections 103 to 109 in healthcare facilities within their respective powers.



## **Section 13**

### **State Institute for Drug Control**

(1) The State Institute for Drug Control, based in Prague (hereinafter referred to as the “Institute”) is the administrative authority with national powers reporting to the Ministry of Health. The Institute is headed by the Director, who is appointed and recalled by the Minister of Health, unless stipulated otherwise by a special Act<sup>25)</sup>.

(2) In the sphere of human pharmaceuticals, the Institute shall:

a) issue

1. marketing authorisations of medicinal products, their variations, renewals, transfers, suspensions, and revocations, decisions regarding take-overs of marketing authorisations, decisions regarding authorisation of parallel import, decisions on the seizure of a medicinal product,

2. manufacturing authorisations for medicinal products, manufacturing authorisations for transfusion products and raw materials for further production, authorisations for the operation of control laboratories, and distribution authorisations for medicinal products, and decide on variations to the issued authorisations, suspensions and revocations thereof ,

3. certificates for operators which serve as a proof of compliance with the principles of good manufacturing practice, good distribution practice, good clinical practice, good pharmaceutical practice and good practice of vendors of selected medicinal products,

4. certificates for operators performing non-clinical safety studies on pharmaceuticals, which serve as a proof of compliance with the principles of good laboratory practice,

5. opinions on pharmaceuticals which form an integral part of a medical device, upon request from a notified body as stipulated by special legal regulations<sup>26)</sup>,

6. opinions on proposed specific therapeutic programmes within the scope stipulated in Section 49,

7. opinions on the application of an active substance or an excipient for human use not placed on the list stipulated by the implementing legal regulation,

8. certificates which serve for the purposes of legal regulations<sup>9)</sup> as a proof of material and technical base for the operation of a pharmacy with regard to the scope of activities performed thereby; this certificate shall be issued always upon a change to the scope of operation,

9. approvals referred to in Section 77, paragraph 1(i) to import from a third country a medicinal product which has not been authorised in any of the Member State nor within the Community;

10. expert opinions requested by the Ministry of Health, on the authorisation for the distribution, dispensing, and use of a non-authorised human medicinal product or an off-label use of an authorised human medicinal product under the conditions stipulated in Section 8, paragraph 6,

b) authorise clinical trials on medicinal products, give its opinion on clinical trials notified thereto, and decide upon the termination or suspension, where applicable, of clinical trials; where multi-centric clinical trials active in several Member States and the Czech Republic in parallel are concerned, it shall draw a uniform position for the Czech Republic;

c) in the event of a threat to the life or health of individuals, particularly where serious adverse reactions to medicinal products are identified or suspected or where a quality defect of a pharmaceutical is identified or suspected, issue:

1. a temporary measure to suspend the use of the pharmaceutical or excipient intended for the preparation of medicinal products or to suspend the marketing of the pharmaceutical or such excipient, or

2. a temporary measure to restrict the marketing of individual batches of the pharmaceutical;

- d) in the event of a threat to the life or health of individuals, particularly where serious adverse reactions or serious adverse events are identified or suspected issue a temporary measure to suspend or restrict the use of a transfusion product; the Institute shall submit annual reports on serious adverse reactions and serious adverse events to the Commission, always by 30 June of the following year;
- e) in the event of a threat to the life or health of individuals, particularly in identified cases referred to under letters (c) and (d), decide on:
1. the recall of the pharmaceutical, including the definition of the scope of the recall, even if the medicinal product is placed on the market as another product, or
  2. removal of the pharmaceutical;
- f) perform random laboratory controls of pharmaceuticals and issue certificates of the quality of pharmaceuticals and excipients;
- g) inspect, at the premises of operators and other persons handling pharmaceuticals, adherence to this Act;
- h) in case of doubts, decide whether a product is a medicinal product or an active substance, or a medicinal product subjected to marketing authorisation or any other product, or, where applicable, a homeopathic product; it may commence such proceedings upon request or initiate them on its own;
- i) consider, on the first level, administrative offences in the sphere of human pharmaceuticals, and adopt measures upon breach of obligations stipulated hereby.

(3) In the sphere of human pharmaceuticals, the Institute shall, moreover:

a) monitor:

1. adverse reactions to medicinal products, including the proposal for and, where applicable, organisation of non-intervention post-marketing studies and the monitoring of the safety of pharmaceuticals and use of medicinal products,
  2. serious adverse reactions and serious adverse events, including their evaluation and adoption of adequate measures;
- b) populate and maintain the pool of expert information on pharmaceuticals, including data on the consumption of medicinal products;
- c) publish information referred to in Section 99 and other data pursuant to this Act in a manner allowing for remote access and, where applicable, also in the Bulletin of the State Institute for Drug Control being the information media of the Institute (hereinafter referred to as “information media”);
- d) take part in the preparation of the European Pharmacopoeia <sup>4)</sup> and be involved in the preparation of the Czech Pharmacopoeia;
- e) where the customs authorities notify the Institute about a suspension of proceedings of releasing goods into free circulation due to suspected lack of safety of the product or due to labelling which is not compliant with the legal regulations or international agreements binding for the Czech Republic, it shall issue, in line with a directly applicable regulation of the Community<sup>27)</sup>, a binding opinion for this authority on potential measures, including preventive ones;
- f) ensure co-operation in the sphere of quality, efficacy, and safety of pharmaceuticals with the competent authorities of the Member States, the Commission, and the Agency, including representation in working groups and committees of the said authorities, where committees referred to by a directly applicable Community regulation<sup>23)</sup> and the Management Board of the Agency<sup>24)</sup> are concerned, and having obtained an approval from the Ministry of Health, appoint representatives; upon request of the concerned authorities of the Member States, the Commission, and the Agency, the Institute shall fulfil other tasks; the Institute shall provide to the Agency a list of experts with verified experience in the evaluation of medicinal products

who are available to fulfil tasks in working groups or expert groups of the committee<sup>23)</sup> and shall identify their qualifications and specific areas of expertise; it shall update this list;

g) Ensure, on the basis of communication from the Ministry of health pursuant to Section 11 (n) pharmacovigilance and adopt adequate measures within the scope of its powers;

h) arrange for the translation of internationally acknowledged medical terminology for the purposes of pharmacovigilance into the Czech language and publish in its information media guidelines regarding the collection, verification, and submission of reports of adverse reactions, including technical requirements for the electronic exchange of pharmacovigilance information in compliance with internationally adopted formats and guidance of the Commission and the Agency;

i) maintain a registry of non-intervention post-marketing studies in medicinal products conducted in the Czech Republic,

j) collect data on the use of medicinal products;

k) arrange for information links with the Community and for the exchange of information required by Community regulations;

l) establish and maintain a quality system ensuring record-keeping on the qualification and expert preparation of the employees of the Institute who are active in the sphere of evaluation and control and who adopt decisions with regard to this Act, including a description of their obligations, responsibilities and requirements governing expert preparation;

m) keep records of

1. authorised medicinal products; it shall notify the Commission and other Member States on changes thereto on an annual basis,

2. operators who have been granted a certificate,

3. inspections conducted at the premises of these operators,

4. ethics committees in the Czech Republic,

n) establish and operate a central data repository for the collection and processing of electronically prescribed medicinal products (hereinafter referred to as the “central repository of electronic prescriptions”).

<sup>25)</sup> Section 53, paragraph 5 of Act No 218/2002 Coll., on the Service of State Employees in Administrative Authorities and on the Remuneration of These Employees and Other Employees in Administrative Authorities (the Service Act), as amended.

<sup>26)</sup> Act No 123/2000 Coll., on Medical Devices and Amendments to Some Related Acts, as amended.

Government Regulation No 336/2004 Coll., laying down technical requirements for medical devices, amending Government Regulation No 251/2003 Coll., amending certain government regulations pronounced as implementing Act No 22/1997 Coll., amending some government regulations issued as implementing for Act No 22/1997 Coll., on Technical Requirements for Products and Amendments to Some Related Acts, as amended.

<sup>27)</sup> Council Regulation (EEC) No 339/93

## **Section 14**

### **Ministry of Agriculture**

In the sphere of veterinary pharmaceuticals, the Ministry of Agriculture shall:

a) control performance of international agreements in the sphere of pharmaceuticals;

b) cooperate with the Ministry of Health in the preparation of the Czech Pharmacopoeia;

c) publish, in the Bulletin of the Ministry of Agriculture and in a manner allowing for remote access:

1. information pursuant to Section 11 (f),

2. exemptions from the marketing authorisation of medicinal products in the delivery of veterinary care, specifying the conditions governing the placement onto the market and use of the medicinal product;
- d) adopt measures to promote research, development, and availability of medicinal products for the purposes of delivery of veterinary care, with special regard to the availability of medicinal products for less frequent animal species and rare therapeutic indications;
- e) approve the appointment of representatives proposed by the Institute for the State Control of Veterinary Biologicals and Medicaments pursuant to Section 11 (m).

## **Section 15**

### **State veterinary administration**

The State Veterinary Administration shall:

- a) decide on appeals from the decision of the Institute for the State Control of Veterinary Biologicals and Medicaments and from decisions of the regional veterinary administration as per Section 17 (c);
- b) authorise, with regard to alleviating the suffering of animals or an infection, the use of non-authorized medicinal products, where the adequate medicinal product does not have marketing authorisation; in its authorisation, the State Veterinary Administration shall establish the conditions governing the placement onto the market and use;
- c) issue decisions specifying the conditions governing the placement on the market and use of veterinary immunological medicinal products, the use of which has been decided on by the Commission;
- d) authorise the veterinary use of active substances and excipients not placed on the list stipulated by the implementing legal regulation.

## **Section 16**

### **Institute for the State Control of Veterinary Biologicals and Medicaments**

(1) The Institute for the State Control of Veterinary Biologicals and Medicaments, based in Brno (hereinafter referred to as the “Veterinary Institute”) is a national administrative authority reporting to the State Veterinary Administration. The Veterinary Institute is headed by a director who is appointed and recalled by the executive director of the State Veterinary Administration, unless specified otherwise by a special legal regulation<sup>25)</sup>.

(2) In the sphere of veterinary pharmaceuticals, the Veterinary Institute shall:

a) issue:

1. marketing authorisations of medicinal products, variations thereto, renewals, transfers, suspensions, and revocations thereof, decisions regarding authorisation of parallel imports, decisions regarding the seizure of a medicinal product; where a decision regarding marketing authorisation of a veterinary immunological medicinal product is concerned, it shall be issued with respect to measures adopted in the sphere of protection against animal infections and their eradication, as stipulated by a special legal regulation<sup>18)</sup>,
2. manufacturing authorisations for medicinal products, including medicated feedingstuffs and veterinary autogenic vaccines, authorisations to engage in an activity as a control laboratory, and distribution authorisations, it shall decide upon variations to, suspension or revocations of the authorisations issued pursuant to this Act,
3. certificates as per Section 13, paragraph 2 (a), item 3 likewise,

4. an opinion on the use of an unauthorised medicinal product in the delivery of veterinary care and on the application of an active substance or an excipient for veterinary use not placed on the list stipulated by the implementing legal regulation,
5. decisions regarding authorisation of import of medicinal products authorised in another Member State;
  - b) authorise clinical trials on pharmaceuticals and decide on the termination or suspension, where applicable, of a clinical trial;
  - c) in the event of a threat to the life or health of animals, or to the health of persons or to the environment, particularly where adverse reactions to medicinal products are identified or suspected or where a quality defect of a pharmaceutical is identified or suspected, issue a temporary measure pursuant to Section 13, paragraph 2 (c) likewise;
  - d) decide, in the event of a threat to the life or health of animals, or to the health of persons or to the environment, on measures as per Section 13, paragraph 2 (e) likewise;
  - e) perform control in the sphere of veterinary pharmaceuticals as per Section 13, paragraph 2 (f) and (g) likewise;
  - f) in case of doubts, decide pursuant to Section 13, paragraph 2 (h) likewise,
  - g) consider, on the first level, administrative offences in the sphere of veterinary pharmaceuticals, unless these are considered by the Regional Veterinary Authority in compliance with Section 17 (c), and adopt measures upon a breach of obligations stipulated by this Act;

(3) In the sphere of veterinary pharmaceuticals, the Veterinary Institute furthermore shall:

- a) monitor risk-benefit ratios and the benefits of medicinal products, including the monitoring of adverse reactions, including insufficient efficacy, off-label use, environmental risks implied by medicinal products, and sufficient withdrawal periods of medicinal products;
- b) populate and maintain the pool of expert information on pharmaceuticals, including data on the consumption of medicinal products;
- c) publish in a manner allowing for remote access, and if applicable, also in the Bulletin of the Institute for the State Control of Veterinary Biologicals and Medicaments, being the information media of the Veterinary Institute (hereinafter referred to as the "information media of the Veterinary Institute"), information referred to in Section 99 and other data as stipulated by this Act;
- d) take part in the preparation of the European Pharmacopoeia <sup>4)</sup> and be involved in the preparation of the Czech Pharmacopoeia;
- e) issue a binding position as per Section 13, paragraph 3 (e) likewise;
- f) ensure cooperation as referred to in Section 13, paragraph 3 (f) likewise; it shall appoint the representatives having obtained an approval from the Ministry of Agriculture;
- g) perform testing of samples of animal products and feedingstuffs as part of the monitoring of prohibited substances and products or residues of substances with pharmacological effects or the metabolites thereof<sup>17)</sup>;
- h) control natural or legal persons for prescribing, dispensing, and use of medicinal products, including medicated feedingstuffs and veterinary autogenic vaccines; by means of prescriptions for medicated feedingstuffs monitor the quantities of pharmaceuticals administered in the form of medicated feedingstuffs, collect and evaluate information about adverse reactions or quality defects of veterinary autogenic vaccines;
- i) ensure information links and exchange of information pursuant to Section 13, paragraph 3 (k) likewise,
- j) establish and maintain a quality system pursuant to Section 13, paragraph 3 (l) likewise;
- k) keep records pursuant to Section 13, paragraph 3 (m), items 1 to 3 likewise.

## **Section 17**

### **Regional Veterinary Administrations**

In the sphere of veterinary pharmaceuticals, the regional veterinary administrations shall:

a) perform

1. supervision<sup>28)</sup> over the use of pharmaceuticals in the form of mass medication using feedingstuffs in compliance with Section 9, paragraph 14 and control prescribing, dispensing, and use of medicinal products in the delivery of veterinary care,

2. by means of prescriptions for medicated feedingstuffs, supervision of the placing on the market and use of medicated feedingstuffs; in this sphere they shall co-operate with the Veterinary Institute;

b) by means of information as per Section 71, paragraph 6 control of whether prescribing, manufacture or use of veterinary autogenic vaccines is compliant with the requirements stipulated by a special legal regulation<sup>18)</sup>;

c) consider on the first level administrative offences identified in the conduct of supervision as per letter (a), unless these are considered by the Veterinary Institute, as referred to in Section 16, paragraph 2 (g), and adopt measures upon the breach of the obligations stipulated by this Act.

<sup>28)</sup> Section 52 of Act No 166/1999 Coll., as amended.

## **Section 18**

### **State Office for Nuclear Safety**

The State Office for Nuclear Safety shall provide opinions on the marketing authorisations and clinical trials of radiopharmaceuticals which are the source of ionizing radiation<sup>13)</sup>.

## **Section 19**

### **Ministry of the Environment**

The Ministry of Environment shall issue, under conditions established by Section 31, paragraph 6, opinions on medicinal products containing genetically modified organisms<sup>11)</sup> and opinions on the impact of pharmaceuticals on the environment.

## **Part 2**

### **Qualification of persons handling pharmaceuticals**

## **Section 20**

### **General prerequisites**

(1) Only persons aged over 18 years, who are legally competent, impeccable, and who comply with appropriate health and professional prerequisites for the specific type of work shall be permitted to handle pharmaceuticals as per Section 5, paragraph 1.

(2) The requirement to be aged over 18 years set forth in paragraph 1 shall not apply to persons who handle pharmaceuticals during training or in schooling under professional guidance<sup>29)</sup>.

(3) An impeccable person shall mean a natural person who complies with the conditions of impeccability set forth in a special legal regulation<sup>29)</sup>. Where a natural person has, in the last three years, stayed abroad for more than six months without interruption, it shall evidence its impeccability also by means of documents evidencing compliance with the condition of impeccability issued by the countries where the person has stayed. Recognition of a document evidencing impeccability shall be governed by a special legal regulation<sup>30)</sup>.

(4) For the purposes of obtaining evidence of impeccability as referred to in paragraph 3, the Institute or the Veterinary Institute shall request an extract from the Penal Register in compliance with a special legal regulation<sup>30a)</sup>. The request for the provision of the extract from the Penal Register and the extract from the Penal Register shall be communicated in electronic format in a manner allowing for remote access. Compliance with the condition of impeccability shall be, furthermore, evidenced by submitting a document adequate to the extract from the Penal Register issued by the state whose citizen the natural person is, as well as by adequate documents issued by the states in whose territories the natural person has stayed for more than six months without interruption for the last three years. The extract from the Penal Register and documents evidencing impeccability of the natural person must not be older than three months.

(5) Unless stipulated otherwise by other provisions of this Act, legal regulations governing the competence of healthcare professionals and other specialists<sup>29)</sup> and the competence for the provision of veterinary care<sup>19)</sup> shall not be prejudiced by this Act.

<sup>29)</sup> Act No 95/2004 Coll., on the Conditions of Achieving and Recognising Professional Competence and Specialised Competence for the Conduct of the Healthcare Professions of a Doctor, Dental Practitioner, and Pharmacist, as amended by Act No 125/2005 Coll.

Act No 96/2004 Coll., on the Conditions of Achieving and Recognising Competence for the Conduct of Non-Medical Healthcare Professions and for the Conduct of Activities Associated with the Delivery of Health Care and on Amendments to Some Related Acts (Act on Non-Medical Healthcare Professions), as amended by Act No 125/2005 Coll.

<sup>30)</sup> Act No 18/2004 Coll., on the Recognition of Professional Qualifications and other Competence of the Nationals of the Member States of the European Union and on Amendments to Some Acts (Act on Professional Qualification Recognition), as amended.

<sup>30a)</sup> Act No 269/1994 Coll., on the Penal Register, as amended.

## **Section 21**

### **Professional prerequisites**

(1) The professional prerequisite for an investigator in clinical trials on human medicinal products shall be a degree from an accredited healthcare master's study programme in general medicine.

(2) The professional prerequisite for an investigator in clinical trials on veterinary medicinal products shall be a degree from an accredited master's study programme in veterinary medicine.

(3) Professional prerequisites for the use of medicinal products in the delivery of health care or veterinary care are stipulated by special regulations<sup>19), 29)</sup>.

## **Section 22**

(1) For the control activities in the field of pharmaceuticals within the Institute and the Veterinary Institute, the professional prerequisite for managerial positions shall be a degree from an accredited healthcare master's study programme in pharmacy<sup>31)</sup>, or a degree from an accredited healthcare master's study programme in general medicine<sup>31)</sup> or a degree from an accredited master's study programme in veterinary medicine<sup>32)</sup> or a degree from an accredited master's study programme in veterinary hygiene and ecology or a degree from an accredited master's study programme in chemistry or biology, and, furthermore, five years of professional practice in the appropriate professional activity.

(2) The professional prerequisite for the employees of the Institute and of the Veterinary Institute who conduct control activities (hereinafter referred to as "inspectors") regarding manufacturers, operators conducting non-clinical safety studies in pharmaceuticals, persons involved in clinical trials, marketing authorisation holders, healthcare facilities and veterinarians, shall be a degree from an accredited healthcare master's study programme in pharmacy<sup>31)</sup>, or a degree from an accredited healthcare master's study programme in general medicine<sup>31)</sup> or a degree from an accredited master's study programme in veterinary medicine<sup>32)</sup> or a degree from an accredited master's study programme in veterinary hygiene and ecology or a degree from an accredited bachelor's study programme in chemistry or biology, and, furthermore, three years of professional practice in such activities which are associated with the area in which the inspector is to carry out control activities; the professional prerequisite for other control activities shall be at least a complete secondary education<sup>33)</sup> and, furthermore, one year of professional practice in such activities which are associated with the area in which the inspector is to carry out control activities.

(3) Persons who evaluate, control, and decide as set forth by this Act or who are involved in professional activities within the scope of such evaluation, control and decision-making, shall:

- a) upon request on an annual basis or, if applicable, prior to the commencement of their work, submit to the Institute or Veterinary Institute a declaration of financial, business or other relations to the operators, marketing authorisation holders or applicants pursuant to this Act, who might influence their unbiased conduct of the said activities; this declaration shall refer to a minimum five-year period before the submission of this declaration; any changes to the data contained in the declaration as they might occur shall be advised; these declarations shall be available for the public and for the Agency upon request; data from this declaration shall be taken into account by the Institute or the Veterinary Institute in assigning specific tasks to the persons in the performance of activities as set forth by this Act;
- b) be obliged to keep the information brought to their attention in the conduct of their activities confidential in compliance with the requirements of the Community, legal regulations and international treaties;
- c) acquaint themselves with the principles of organisation and management of the inspected activities in the relevant Member State or third country where inspections abroad are concerned;

<sup>31)</sup> Act No 95/2004 Coll., as amended by Act No 125/2005 Coll.

<sup>32)</sup> Act No 111/1998 Coll., on Universities and Amendments to Other Acts (the University Act), as amended.

<sup>33)</sup> Act No 96/2004 Coll., as amended by Act No 125/2005 Coll.

### **Part 3**

#### **Obligations and competences of the operator**



## Section 23

(1) An operator shall be obliged:

- a) when handling pharmaceuticals, to adhere to procedures and comply with the requirements of the European Pharmacopoeia<sup>4)</sup> and Czech Pharmacopoeia, with Community monographs of medicinal herbs, instructions of the Commission and the Agency and instructions of the holder of the marketing authorisation of the medicinal product stipulated in accordance with this decision;
- b) in the case of an occurrence of an adverse reaction to a medicinal product or a quality defect of a pharmaceutical, to evaluate their seriousness and, in the case of need, to adopt all available measures aimed at remedying the problem and limiting the adverse effect of the pharmaceutical or of the excipient to the lowest practicable degree, including its possible recall from the market, and to inform forthwith the Institute or the Veterinary Institute, on these measures, if they are adopted in the case of a quality defect or a serious or unexpected adverse reaction;
- c) to immediately inform the Institute, in the case of a human pharmaceutical, or the Veterinary Institute, in the case of a veterinary pharmaceutical, of a suspected quality defect of a pharmaceutical or an excipient resulting in the recall of the pharmaceutical or the excipient from the market;
- d) to provide, free of charge, the Institute or the Veterinary Institute as requester thereby, with any source material and information necessary for the conduct of their tasks as stipulated by Section 13, paragraph 3 (b) and Section 16, paragraph 3 (b) and, if necessary for the verification of the quality of a medicinal product, with a sample thereof; this obligation shall not apply to transfusion products.

(2) In the delivery of health or veterinary care, an operator may not place on the market or use pharmaceuticals

- a) with an expired shelf life;
- b) with a quality defect; or
- c) if the Institute or Veterinary Institute has decided to this effect.

(3) An operator, with the exception of a vendor of selected medicinal products, shall be entitled, as part of measures for the protection of pharmaceuticals, to search within its premises used for manufacturing, preparation, treatment, control or distribution of pharmaceuticals, persons entering or leaving these premises and their luggage and transportation vehicles entering or leaving these premises. These persons shall be obliged to undergo these searches.

(4) A vendor of selected pharmaceuticals shall be obliged to:

- a) ensure that each natural person selling selected medicinal products obtained a certificate of professional qualification of a vendor of selected medicinal products;
- b) comply with the rules of good practice of vendors of selected medicinal products and inform the Institute or the Veterinary Institute within the maximum of 15 days of the commencement of operation and the business address or registered office and the address of the outlet, or, if applicable, of the termination of operation;
- c) sell only selected medicinal products;
- d) exclude selected medicinal products from sale if:
  1. the vendor has been notified of a defect thereof; in such case the vendor shall notify without delay the Institute or the Veterinary Institute, provide it with a sample of the concerned medicinal product and further proceed according to the instructions of the concerned Institute,
  2. their shelf life has expired,

3. the integrity of the immediate or outer packaging has been compromised,
  4. the labelling on the package is missing or illegible,
  5. storage conditions established for these medicinal products have not been complied with, or
  6. the Institute or the Veterinary Institute has decided to this effect pursuant to Section 13, paragraph 2 (c) or (d) or (e) or pursuant to Section 16, paragraph 2 (c) or (d) or within the scope of the procedure concerning a variation to marketing authorisation pursuant to Section 35;
- e) pass an unusable selected medicinal product for disposal in compliance with Sections 88 and 89 as stipulated by special legal regulations<sup>34)</sup>;
  - f) purchase selected medicinal products only from the distributors or manufacturers of these medicinal products and keep documents on the purchase, storage and sale of selected medicinal products for a period of at least five years.

(5) The implementing legal regulation stipulates the contents, number of lessons and method of organisation of a specialised course for vendors of selected medicinal products and rules of good practice of the vendors of selected medicinal products.

(6) Operators conducting non-clinical safety studies on pharmaceuticals shall be obliged to observe the principles of good laboratory practice in compliance with Section 6, paragraph 4; the rules of good laboratory practice are set forth by the implementing legal regulation. In the conduct of non-clinical safety studies, operators must proceed in compliance with special legal regulations<sup>35)</sup>.

<sup>34)</sup> Act No 185/2001 Coll., on Waste and Amendments to Some Other Acts, as amended.  
Decree No 383/2001 Coll., on details of waste management, as amended by Decree No 41/2005 Coll.

<sup>35)</sup> Act No 246/1992 Coll., as amended.  
Decree No 207/2004 Coll., on the protection, breeding, and use of experimental animals.

## **Section 24**

### **Obligations during collection, testing, processing, storage, dispensing, distribution and import from a third country or export to a third country of human blood, its components, raw materials for further production and transfusion products**

(1) Holders of marketing authorisation for a medicinal product which contains raw materials from human blood or its components or in the manufacture of which such raw materials have been used, and operators:

- a) involved in the manufacture of transfusion products and raw materials for further production, incl. their manufacture for the purposes of clinical trials;
- b) using in the manufacture or preparation of medicinal products or importing from third countries for the purposes of manufacture of medicinal products or distributing human blood, its components or raw materials for further production;

shall in the collection, testing, processing, storage, distribution, and import from a third country or export to a third country where human blood, its components, raw materials for further production and transfusion products are concerned, ensure compliance with quality and safety as set forth in Section 67.

(2) Persons referred to in paragraph 1, persons dispensing transfusion products and persons delivering health care shall keep records ensuring traceability of transfusion products from the donor to the recipient and vice versa, and of raw materials for further production from the

donor to the manufacturer and vice versa, including data about unused transfusion products and raw materials for further production in the scope and by ways stipulated by the implementing legal regulation; these records shall be kept for the minimum period of 30 years and shall be upon request available to the manufacturer of the transfusion product or raw material for further production. These persons shall be obliged to safeguard records in a manner allowing for their protection from unauthorised access or any other illegal handling and losses for the duration of the period, ensuring that this obligation is complied with also after a potential dissolution of these persons.

(3) If a serious adverse reaction or a serious adverse event is identified or suspected, persons referred to in paragraph 2 shall be obliged to:

- a) adopt any available measures aimed at remedying the situation and limiting the adverse effects to the lowest practicable degree;
- b) forthwith notify the Institute and persons who will be involved in resolving the case of such finding or suspicion within the scope and by ways stipulated by the implementing legal regulation;
- c) maintain and allow access to documentation regarding such finding or suspicion, including documentation containing personal data<sup>36)</sup>;
- d) draw a report on such finding or suspicion and provide it to the Institute and to persons involved in the case.

In order to ensure these obligations are fulfilled, persons referred to in paragraph 2 shall establish a procedure to monitor and resolve identified or suspected serious adverse reactions and serious adverse events. Blood centres and blood banks shall submit to the Institute a report for every calendar year summarising data referred to in this paragraph and paragraph 2. The implementing legal regulation stipulates rules and scope for the procedure to monitor and resolve identified or suspected serious adverse reactions, serious adverse events and the contents and due dates for the submission of the reports and data regarding these events to the Institute.

(4) Transfusion products or plasma for the production of blood derivatives may be imported from third countries, exported to third countries or distributed between the Czech Republic and another Member State by operators referred to in paragraph 1 only after a prior approval obtained from the Ministry of Health, unless a transit is concerned<sup>37)</sup>. The approval shall be issued for a specific period of time; the application for the issue of the approval must contain data about the applicant, as well as information detailing the subject of the application, and its rationale; the scope of the data is stipulated by the implementing legal regulation.

(5) The Ministry of Health shall decline its approval referred to in paragraph 4, if:

- a) such import from a third country or export to a third country or such distribution involves transfusion products or plasma for the production of blood derivatives which have been produced in conflict with the provisions of this Act and may jeopardise the life or health of people;
  - b) the export to a third country or import from a third country is given preference to distribution within the Community;
  - c) in the event of import, sufficient quantities of transfusion products compliant with this Act which have been produced from the collections from donors in the Czech Republic are available for the purposes of health care;
  - d) the export to a third country or distribution from the Czech Republic to another Member State would jeopardise Czech Republic's self-sufficiency in terms of ensuring haemotherapy;
- or

e) the conduct of such import or export would be inconsistent with the achievement of the goal of voluntary free donations of blood in the Czech Republic.

(6) The Ministry of Health shall revoke its approval referred to in paragraph 4, if:

- a) the approval has been issued on the basis of false or incomplete data;
- b) conditions of the issued approval are not being complied with;
- c) the conduct of the import from a third country or export to a third country results in a jeopardy to the health or life of people, or
- d) the operator for whom the approval has been issued, has seriously breached the obligations of an operator stipulated by this Act.

(7) An operator for whom the approval referred to in paragraph 4 has been granted shall inform the Ministry of Health about the conduct of the import from a third country or the conduct of the export to a third country within the period of 10 days of the conduct of such import or export. The implementing legal regulation stipulates the method of the provision of such information and the content thereof.

(8) The operator referred to in paragraph 1 may conduct a distribution of a transfusion product between the Czech Republic and another Member State, an import of a transfusion product from a third country or export of a transfusion product to a third country without having to obtain the approval referred to in paragraph 4 in advance; if applicable, a healthcare facility<sup>9)</sup> may obtain a transfusion product from a Member State, if it is justified by an urgent and exigent need to safeguard the transfusion product for the delivery of health care to individual patients. In such a case the operator who has imported or exported the transfusion product or, where applicable, the healthcare facility which has obtained it, shall inform the Ministry of Health to this effect no later than within 15 days. The implementing legal regulation stipulates the method of providing this information and the content thereof.

(9) An operator who has been granted the approval referred to in paragraph 4 shall be obliged to submit, upon the conduct of the import or export with the exception of a transit<sup>37)</sup>, this approval to the concerned customs authority as the person making the customs declaration<sup>38)</sup>, either itself or through its direct agent<sup>39)</sup>.

<sup>36)</sup> Act No 101/2000 Coll., on the Protection of Personal Data and Amendments to Some Acts, as amended.

<sup>37)</sup> Article 4, paragraph 16 of Council Regulation (EEC) No 2913/92 of 12 October 1992, establishing the Community Customs Code, as amended.

<sup>38)</sup> Article 4, paragraph 18 of Council Regulation (EEC) No. 2913/92, as amended.

<sup>39)</sup> Article 5 of Council Regulation (EEC) No. 2913/92, as amended.

### **TITLE III**

## **MARKETING AUTHORISATION OF MEDICINAL PRODUCTS AND ISSUES RELATED**

### **Section 25**

(1) A medicinal product may not be placed on the market in the Czech Republic, unless it has been:

- a) authorised by the Institute, where a human medicinal product is concerned, or by the Veterinary Institute where a veterinary medicinal product is concerned; or
- b) authorised by a procedure compliant with a directly applicable Community regulation<sup>24)</sup>.

If a medicinal product has already been authorised as referred to in letter (a) or (b), marketing authorisation of any other strengths, pharmaceutical forms, routes of administration and for another animal species, where a veterinary medicinal product is concerned, must be granted in compliance with letter (a) or (b). All of these marketing authorisations shall be known as cluster authorisation.

(2) Marketing authorisation shall not apply to:

a) medicinal products prepared in a pharmacy or at workplaces authorised to prepare medicinal products in compliance with Section 79

1. in accordance with a medical prescription for an individual patient,

2. in accordance with Czech Pharmacopoeia or on the basis of a technological prescription and intended to be supplied directly to the patients served by the pharmacy which has prepared the product or by the pharmacy which is authorised to take these from the former pursuant to Section 79, paragraph 9, or intended to be supplied directly to a veterinarian or breeder of animals, or intended for direct use in the healthcare facility for which the product has been prepared;

b) medicinal products intended for research and development purposes;

c) intermediate products intended for further processing by a manufacturer of medicinal products;

d) radionuclides in the form of sealed sources;

e) whole blood, plasma or blood cells of human origin and transfusion products, with the exception of plasma produced by a method involving an industrial process;

f) medicated feedingstuffs;

g) veterinary autogenic vaccines;

h) radiopharmaceuticals prepared in accordance with the instructions of the marketing authorisation holder exclusively from authorised radionuclide generators, kits or radionuclide precursors for immediate use by nuclear medicine workplaces of healthcare facilities authorised to operate as per special legal regulation<sup>13)</sup>.

(3) Marketing authorisation shall also be required for radionuclide generators, kits, radionuclide precursors of radiopharmaceuticals and industrially manufactured radiopharmaceuticals.

(4) For the purposes of marketing authorisation of medicinal products:

a) a reference medicinal product shall mean a medicinal product authorised as set forth in paragraph 1 and on the basis of an application submitted in compliance with Section 26;

b) a generic product shall mean a medicinal product of identical qualitative and quantitative composition, where active substances are concerned, and identical pharmaceutical form as the reference medicinal product, and for which, with the exception of those cases where it may be evidenced that the generic product complies with the relevant criteria stipulated by the applicable guidance of the Commission and the Agency, bioequivalence with the reference medicinal product has been evidenced by adequate bioavailability studies; various salts, esters, ethers, isomers, isomer mixtures, complexes or derivatives of the active substances shall be considered the same active substance unless they vary significantly in their properties

relevant to the safety, or, where applicable, to efficacy; various oral pharmaceutical forms with immediate release shall be considered the same pharmaceutical form.

## **Marketing authorisation application**

### **Section 26**

(1) An application for marketing authorisation shall be lodged by natural or legal persons (hereinafter referred to as the “applicant for marketing authorisation”) for each pharmaceutical form and strength of a medicinal product separately with the Institute where a human medicinal product is concerned, or with the Veterinary Institute where a veterinary medicinal product is concerned.

(2) An application as per paragraph 1 shall not be lodged with the Institute or with the Veterinary Institute in the case set forth in Section 25, paragraph 1 (b).

(3) Where the application for marketing authorisation of the same medicinal product is submitted not only in the Czech Republic but also in another Member State, procedures compliant with the provisions governing mutual recognition of marketing authorisations shall be employed.

(4) Marketing authorisation may only be granted to an applicant for marketing authorisation residing or established<sup>21)</sup> within the territory of any of the Member States.

(5) The application for marketing authorisation shall be accompanied by the following particulars and documents:

- a) name of the medicinal product;
- b) qualitative and quantitative particulars of all the constituents of the medicinal product, with mention of the international non-proprietary name recommended by the World Health Organisation where such name exists, or with mention of the appropriate chemical name, and information whether the medicinal product contains an addictive substance or a precursor<sup>40)</sup>;
- c) evaluation of a potential risk which the medicinal product presents to the environment and any specific measures to reduce such risk, if applicable;
- d) description of the manufacturing method;
- e) therapeutic indications, contra-indications, and adverse reactions;
- f) posology, pharmaceutical form, method and route of administration, and expected shelf life; where a veterinary medicinal product is concerned, posology for all animal species for which the given product is intended shall be specified;
- g) if applicable, reasons for any precautionary and safety measures to be adopted for the storage of the medicinal product, its administration to patients or animals and for the disposal of waste products, together with an indication of any potential risks presented by the medicinal product for the environment; where a veterinary medicinal product is concerned, also all potential risks for the health of human beings, animals or plants associated with the product shall be indicated;
- h) description of control methods employed by the manufacturer;
- i) results of:
  1. pharmaceutical tests (physico-chemical, biological or microbiological tests),
  2. preclinical tests (toxicological and pharmacological tests),
  3. clinical trials,

4. tests for safety and residues, where a veterinary medicinal product is concerned;
- j) a detailed description of the method of ensuring pharmacovigilance, and where applicable, of the risk management system to be established by the applicant for marketing authorisation;
- k) an affidavit confirming that the clinical trials conducted outside the Community are compliant with the ethics requirements adequate to those stipulated by Section 51 et seq., where a human medicinal product is concerned;
- l) proposed summary of the product characteristics, specimen of proposed outer and immediate packaging of the medicinal product together with proposed package leaflet; for human medicinal products the implementing legal regulation stipulates the cases and method of submission of conclusions from the examination of legibility and clarity of the package leaflet conducted in cooperation with the target groups of patients;
- m) identifications of all manufacturers and manufacturing sites and documents showing that each manufacturer holds a manufacturing authorisation for medicinal products;
- n) a list of countries in which the relevant medicinal product is authorised or an application for its marketing authorisation is pending, copies of the summary of the product characteristics and package leaflet submitted together with the application for marketing authorisation or, where the medicinal product has been already authorised, approved by the concerned authorities of the Member States, and details of any decision to take back an application or decision to refuse, suspend or revoke authorisation in a Member State or in a third country, and the reasons for such decision; where veterinary medicinal products are concerned, also copies of all marketing authorisations granted in the Member States and in third countries shall be attached;
- o) proposed withdrawal period where a veterinary medicinal product is concerned which is intended for administration to food-producing animals;
- p) documents evidencing that at least six months before the submission of the application for marketing authorisation a valid application for the determination of maximum residue limits has been submitted to the Agency in accordance with a directly applicable Community regulation<sup>5)</sup> in the case of veterinary medicinal products intended for administration to food-producing animals which contain new pharmacologically active substances not yet listed under Annex I, II or III to this directly applicable regulation, with the exception of cases listed under Section 31, paragraph 11;
- q) proof of payment of the administrative fee for the submission of the application for marketing authorisation as per a special legal regulation<sup>41)</sup>, or a proof of reimbursement of costs as referred to in Section 112, if this reimbursement is required in advance;
- r) copies of documents stating that the human medicinal product has been classified as an orphan medicinal product<sup>42)</sup>, together with a copy of the relevant opinion of the Agency, where an orphan medicinal product is concerned;
- s) a document evidencing that services of a qualified person responsible for pharmacovigilance are available to the applicant and a document evidencing how reporting of each adverse effect suspected in the Community or in a third country is safeguarded.

(6) The documents and particulars pertaining to the results of pharmaceutical and preclinical tests and clinical trials referred to in paragraph 5, items 1 to 3, shall be accompanied by detailed summaries pursuant to Section 27, paragraph 12. Where veterinary medicinal products are concerned, moreover, detailed summaries shall accompany the documents and particulars pertaining to the results of tests for safety and residues referred to in paragraph 5 (i), item 4 and, where applicable, evaluation of the impact upon the environment as referred to in paragraph 5 (c).

(7) The applicant for marketing authorisation shall, moreover, draw up the particulars and documentation for the application for marketing authorisation in compliance with the guidelines of the Commission and of the Agency. Proposed summary of the product characteristics, proposed package leaflet, and proposed information to be shown on the outer and immediate packaging of the medicinal product shall be submitted in the Czech language unless the Institute or the Veterinary Institute decides otherwise as per Section 38; other documentation may be submitted also in the English or Slovak language or, if applicable, in another language established by the Institute or the Veterinary Institute after a discussion with the applicant for marketing authorisation.

Where changes to the submitted data and documentation arise in the course of the marketing authorisation procedure, particularly in data referred to in paragraph 5 (n), the applicant for marketing authorisation must forthwith notify the Institute or the Veterinary Institute of such changes. Where extensive changes to the data and documentation are concerned, the Institute or the Veterinary Institute may require the submission of a new application for marketing authorisation and suspend the procedure pertaining to the original application. The implementing legal regulation stipulates more detailed definition of the content and layout of the particulars and documentation for the application.

<sup>40)</sup> Act No 167/1998 Coll., on Dependency Producing Substances and on Amendments to Some Other Acts, as amended.

<sup>41)</sup> Act No 634/2004 Coll., on Administrative Fees, as amended.

<sup>42)</sup> Council Regulation (EC) 141/2000.

## **Section 27**

(1) The applicant for marketing authorisation shall not be obliged to submit the results of preclinical tests and clinical trials, and, for veterinary medicinal products, furthermore the results of tests for safety and residues if he or she is able to evidence that the medicinal product is a generic product of a reference medicinal product which has been authorised in compliance with Community regulations for the minimum period of eight years in a Member State or via a procedure set forth in a directly applicable Community regulation<sup>24)</sup>. In this case particulars specified under Section 26, paragraph 5 (i), items 2 to 4 shall not be submitted and the legal protection of industrial property and business secret shall not be prejudiced. A generic product authorised as per this provision must not be placed on the market before the expiry of 10 years of the first marketing authorisation of the reference product in any of the Member States or in the Community or, in the case of veterinary medicinal products authorised for fish, bees and other animal species stipulated by the Commission, 13 years of the first marketing authorisation of the reference product in any of the Member States or in the Community. These periods shall only be six years, if the application for marketing authorisation of such reference product was submitted before 30 October 2005 and it is not a reference product authorised via a procedure set forth by a directly applicable Community regulation<sup>24)</sup>.

(2) The period of 10 years referred to in paragraph 1 shall be extended by decision:

a) for human medicinal products to the maximum of 11 years, if the marketing authorisation holder of the reference product obtains during the first eight years of the said 10 years a marketing authorisation for one or more new therapeutic indications which, before the marketing authorisation, are scientifically rated as a significant clinical benefit compared to the existing therapeutic procedures;



b) for veterinary medicinal products by one year for each extension of the marketing authorisation by a new food-producing animal species, but to not more than 13 years, if the marketing authorisation holder of the reference product obtains such extension of the marketing authorisation in the course of the first five years of this 10-year period and if veterinary medicinal products intended for at least one food-producing animal species and which contain a new active substance which has not been authorised in the Community before 30 April 2004 are concerned; the extension of the period from 10 years to 11, 12 or 13 years shall be recognised only if the marketing authorisation holder has been at the same time the applicant for the establishment of maximum residue limits for the animal species which is the object of the marketing authorisation.

(3) The provisions of paragraph one, sentences one and two shall also apply, if the reference medicinal product has not been authorised in the Member State in which the application for marketing authorisation of the generic product has been submitted. In this case the applicant for marketing authorisation shall give the name of the Member State where the reference product is or was authorised in the application. If the application for marketing authorisation is submitted in the Czech Republic, the Institute or the Veterinary Institute shall request the competent authority of the other Member State to provide a confirmation that the reference medicinal product is or was authorised and a complete composition of the reference product, or any other documentation as applicable. If such confirmation is requested by an authority of another Member State, the Institute or the Veterinary Institute shall provide the confirmation and the information within one month of the delivery of the request.

(4) Where a medicinal product is not a generic product or if bioequivalence cannot be evidenced by bioavailability studies or in the case of changes to the active substance or active substances, therapeutic indications, strength, pharmaceutical form or route of administration compared to the reference medicinal product, results of relevant preclinical tests or clinical trials and, where veterinary medicinal products are concerned, also results of relevant tests for safety and residues shall be submitted to the Institute or the Veterinary Institute. If various salts, esters, ethers, isomers, isomer mixtures, complexes or derivatives of the active substance vary significantly in terms of their properties associated with their safety and, if applicable, efficacy, the applicant must submit additional information evidencing safety and, if applicable, efficacy of various salts, esters, or derivatives of the concerned active substance.

(5) If a biological medicinal product similar to the reference biological medicinal product does not meet the conditions for the definition of a generic product, in particular due to differences in raw materials or differences in manufacturing processes of such biological medicinal product and the reference biological medicinal product, results of relevant preclinical tests or clinical trials concerning these conditions must be submitted. Results of other preclinical tests and clinical trials included in the marketing authorisation dossier of the reference biological medicinal product shall not be submitted. The implementing legal regulation stipulates the scope of additional data to be submitted. These data must comply with the relevant guidance of the Commission and the Agency.

(6) In the event of an application for:

a) marketing authorisation for a new indication of a human medicinal product containing a well established substance where significant preclinical tests and clinical trials related to this new indication have been conducted, the Institute must not take the results of these studies into account when considering an application lodged by another applicant for marketing authorisation pursuant to paragraph 1 for the period of one year of granting the marketing

authorisation for another medicinal product with the given indication; the period of protection referred to in the previous sentence cannot be repeated;

b) extension of a marketing authorisation of a veterinary medicinal product authorised pursuant to paragraph 7 for at least one food-producing animal species by another such animal species for which the applicant has submitted results of new tests for residues in compliance with a directly applicable Community regulation<sup>5)</sup> together with the results of new clinical trials, the Veterinary Institute must not take the results of these tests into account when considering an application as per paragraph 1 for another applicant for the period of three years of granting the marketing authorisation for which they have been submitted.

(7) The applicant for marketing authorisation shall not be obliged to submit the results of preclinical tests or clinical trials and, for veterinary medicinal products, the results of tests for safety and residues, either, if the applicant may evidence that the active substances of the medicinal product have had a well established therapeutic use in the Community for at least 10 years with recognised efficacy and acceptable safety standard; the scope and method of evidencing a well established therapeutic use is stipulated by the implementing legal regulation. In such case data referred to in Section 26, paragraph 5 (i), items 2 to 4 shall not be submitted; instead of the results of preclinical tests and clinical trials, relevant scientific literature shall be presented, without prejudice to the legal protection of industrial property and business secret. In the event of veterinary medicinal products it is possible, particularly for the purposes of evidencing safety, use assessment reports published by the Agency in relation with the assessment of the application for the establishment of maximum residue limits in compliance with a directly applicable Community regulation<sup>5)</sup>.

(8) In the event of medicinal products containing active substances which are components of authorised medicinal products but which have not been used in combination for therapeutic purposes, results of preclinical tests or clinical trials have to be submitted, and, for veterinary medicinal products, also results of tests for safety and residues relevant to this combination pursuant to Section 26, paragraph 5 (i) have to be submitted, but it is not necessary to submit results of preclinical tests or clinical trials relevant to each individual active substance.

(9) For the purposes of assessment of applications concerning different medicinal products with the same qualitative and quantitative composition in terms of active substances, and identical pharmaceutical form, the marketing authorisation holder may after the marketing authorisation is granted, approve the use of pharmaceutical, preclinical and clinical source materials contained in the marketing authorisation dossier of the medicinal product. Where veterinary medicinal products are concerned, the marketing authorisation holder may, furthermore, approve of the use of source materials relevant to safety and residues.

(10) Where veterinary immunological medicinal products are concerned, the applicant for marketing authorisation shall not be obliged to submit results of some evaluations conducted in target animal species in field conditions, if these evaluations cannot be conducted with a view to Community regulations referring to some serious animal infections<sup>15)</sup>. In such case, data referred to in Section 26, paragraph 5 (i), items 2 to 4 shall not be submitted and the applicant shall give reasons in the application explaining why such results have not been submitted.

(11) For marketing authorisations referred to in paragraphs 1 to 5 the summary of the product characteristics does not have to contain those parts of the summary of the product characteristics of the reference medicinal products relevant to the indications or

pharmaceutical forms which have been at the time of placement of the generic product on the market, still protected by patent rights<sup>43)</sup>. The implementing legal regulation stipulates the scope and layout of data which form the contents of the summary of the product characteristics.

(12) The applicant for marketing authorisation shall ensure that detailed summaries referred to in Section 26, paragraph 6 have been compiled and signed by experts with adequate technical or professional qualifications which shall be provided in a brief curriculum vitae. Persons who with technical or professional qualifications referred to in the previous sentence shall justify each use of scientific literature as per paragraph 7. The purpose of detailed summaries is to summarise pharmaceutical, preclinical, and clinical data in the form of overviews. The implementing legal regulation stipulates the scope of the detailed summaries.

<sup>43)</sup> Act No 527/1990 Coll., on Inventions, Industrial Designs and Rationalisation Proposals, as amended.

## **Simplified registration procedure**

### **Section 28**

#### **Procedures concerning human homeopathic products**

(1) Only human homeopathic medicinal products which satisfy the following conditions shall be subject to a simplified registration procedure which does not require a proof of therapeutic efficacy:

- a) they are administered orally or externally;
- b) no therapeutic indication appears on the labelling of the human homeopathic product or in any information relating thereto;
- c) the safety of the human homeopathic product can be guaranteed by means of dilution; the implementing legal regulation stipulates the procedure of dilution of the human homeopathic product.

(2) An application for simplified registration may cover also a series of human homeopathic products derived by dilution from the same homeopathic stock or combination of stocks and varying only in the degree of dilution. For each pharmaceutical form a separate application shall be submitted.

(3) The application for simplified registration must contain data about the applicant as well as data specifying the subject of application and a rationale thereof; the application shall be accompanied by documentation evidencing the safety of the human homeopathic product, the pharmaceutical quality and the batch-to-batch homogeneity. The particulars of this application shall be likewise governed by the provisions of Section 26, paragraph 5 with the exception of letters (c), (e), (g), (i) item 3, (j), (k) and (l) with respect to the proposed summary of the products characteristics. The implementing legal regulation stipulates the scope of data and contents of the documentation to be submitted.

(4) Where human homeopathic products authorised by simplified registration procedure as per paragraph 1 are concerned, the labelling must, apart from data stipulated by Section 37, show the information “Homeopathic product without authorised therapeutic indications”; the same information must be contained in the package leaflet.

## **Section 29**

### **Procedures concerning veterinary homeopathic products**

(1) Veterinary homeopathic products which satisfy the following conditions shall be subject to authorisation by means of simplified registration procedure:

- a) they are administered by a route described in the European Pharmacopoeia or by the pharmacopoeias effective in the Member States;
- b) no specific therapeutic indications or any other information relating to the specific therapeutic indications appear on the labelling or in any other information pertaining to the concerned veterinary homeopathic product, unless stipulated otherwise by the Commission<sup>44)</sup>;
- c) they are not veterinary immunological homeopathic products;
- d) there is a sufficient degree of dilution to guarantee the safety of the veterinary homeopathic product; such veterinary homeopathic products may not contain more than one part per 10 000 of the mother tincture, unless stipulated otherwise by the Commission<sup>44)</sup>.

The use of the simplified registration procedure of veterinary homeopathic products shall not prejudice the requirements stipulated in a directly applicable Community regulation<sup>5)</sup>.

(2) The application for simplified registration must contain data about the applicant as well as data specifying the subject-matter of the application and a rationale thereof; the application shall be accompanied by documentation evidencing, in particular, the safety of the veterinary homeopathic product, the pharmaceutical quality and the batch-to-batch homogeneity. The implementing legal regulation stipulates the scope of data and contents of the documentation to be submitted. In its decision on the registration of a veterinary homeopathic product, the Veterinary Institute shall establish the method of dispensing of the product.

(3) For veterinary homeopathic products as per paragraph 1, the proof of therapeutic efficacy and proposed summary of the product characteristics shall not be submitted.

(4) Applications for simplified registration procedure referred to in paragraph 1 shall be governed by the provisions of Section 28, paragraph 2 likewise.

(5) Where veterinary homeopathic products authorised by simplified registration procedure as per paragraphs 1 and 2 are concerned, the labelling must, apart from data stipulated by Section 37, show the information “Homeopathic veterinary product without authorised therapeutic indications”; the same information must be contained in the package leaflet.

<sup>44)</sup> Article 17 of Directive 2001/82/EC of the European Parliament and of the Council, as amended by Directive 2004/28/EC.

## **Section 30**

### **Procedures concerning traditional herbal medicinal products**

(1) Traditional herbal medicinal products shall be subject to simplified registration procedure pursuant to this provision only if they do not meet the criteria of marketing authorisation/registration set forth in Section 25 to 28. Traditional herbal medicinal products shall be those human herbal medicinal products which comply with the following conditions:

- a) they are intended for oral, external or inhalation administration;
- b) they are intended exclusively for administration in accordance with a specified strength and posology;

- c) their indications are exclusively appropriate to traditional herbal medicinal products which, by virtue of their composition and purpose, are intended and designed for use without the supervision of a medical practitioner for diagnostic purposes or for prescription or monitoring of treatment
- d) the period of traditional use stipulated in paragraph 3 (e) has elapsed;
- e) the data about the traditional use of such medicinal product are sufficient; in particular, the product proves not to be harmful in the specified conditions of use and the pharmacological effects or efficacy of the medicinal product are obvious on the basis of long-standing use and experience.

(2) The presence in the traditional herbal medicinal product of vitamins or minerals for the safety of which there is well-documented evidence shall not prevent the product from being eligible for registration via simplified procedure in accordance with paragraph 1, provided that the action of the vitamins or minerals is ancillary to that of the herbal active ingredients regarding the specified indication(s).

(3) The application for simplified registration referred to in paragraph 1 must be accompanied by:

- a) particulars and documentation set forth in Section 26, paragraph 5 (a) to (h), (j), (l), (m), (q) and (s) and results of pharmacological tests referred to in Section 26, paragraph 5 (i) item 1;
- b) the summary of the product characteristics within the scope stipulated by the implementing legal regulation;
- c) particulars set forth in paragraph 1 (e) relevant to the combination mentioned in Section 2, paragraph 2 (m) or in paragraph 2, if the individual active ingredients are sufficiently known; where this condition is not met, data relevant to individual active ingredients must also be enclosed;
- d) a list of countries where the applicant for registration has been granted registration or authorisation to place the concerned medicinal product on the market in another Member State or in a third country, and details of any withdrawal of the application or decision on rejection, suspension or revocation of the registration or authorisation within the Community or in a third country and reasons for all of these decisions;
- e) bibliographic or scientific evidence that the concerned medicinal product or a corresponding product as per paragraph 4 has been, as of the date of submission of the application, used for treatment for the period of at least 30 years, of which at least 15 years in the Community;
- f) a bibliographic overview of safety data together with summaries referred to in Section 26, paragraph 6.

The implementing legal regulation stipulates a more detailed definition of the scope and layout of data and documentation to be submitted with the application.

(4) The corresponding product shall have identical active ingredients regardless of the applied excipient, identical or similar intended purpose of use, equivalent strength and posology and identical or similar route of administration as the medicinal product for which the application is being submitted. The requirement for the evidence of therapeutic use of the concerned medicinal product or corresponding product over the period of at least 30 years shall be fulfilled even if the concerned medicinal product or the corresponding product has been placed on the market without being registered as per this Act. This requirement shall be also fulfilled if the number or amount of constituents has been decreased over this period of time. If the concerned medicinal product or the corresponding product has been used in the Community for less than 15 years, but otherwise complies with the conditions of registration

via simplified procedure as referred to in paragraph 1, the Institute shall apply for an opinion of the Committee for Herbal Medicinal Products<sup>45)</sup>. The procedure shall be suspended as of the date of sending the application for opinion to the Committee for Herbal Medicinal Products until the Institute obtains the opinion; the Institute shall inform the applicant of the suspension.

(5) The provisions governing the mutual recognition procedure shall be applied only to registration via simplified procedure as referred to in paragraph 1 likewise providing that:

a) the Community monograph<sup>45)</sup> of the medicinal herb has been drafted by the Committee for Herbal medicinal Products; or

b) the traditional herbal medicinal product consists of herbal substances, herbal preparations or combinations thereof which are contained in the list referred to in paragraph 7, where:

1. herbal substances shall mean whole, fragmented or cut plants, plant parts, algae, fungi, lichen including in an unprocessed, dried or fresh form; herbal substances shall, furthermore, mean herbal exudates which have not been subjected to a specific treatment; herbal substances are defined by the plant part used and the botanical name according to the effective scientific binomial system including genus, species, author and, where applicable, subspecies and variety,

2. herbal preparations shall mean preparations obtained by subjecting herbal substance(s) to treatment such as extraction, distillation, pressing, fractionation, purification, concentration or fermentation; these include comminuted or powdered herbal substances, tinctures, extracts, essential oils, expressed juices and processed exudates.

(6) An application for registration via simplified procedure referred to in paragraph 1 shall be declined, if it is proven in the course of the registration procedure that the herbal medicinal product does not comply with the conditions stipulated in paragraphs 1 to 3, or that

a) the qualitative or quantitative composition is inconsistent with the labelled composition;

b) the indications do not comply with the conditions stipulated in paragraph 1;

c) it may be harmful under the usual conditions of use;

d) data about traditional use are insufficient, especially when the pharmacological effects or efficacy are not obvious on the basis of long-term use and experience; or

e) the pharmaceutical quality is not adequately evidenced.

The decision to decline an application for registration via simplified procedure referred to in paragraph 1, including a rationale thereof, shall be notified by the Institute also to the Commission, within 15 days of the coming legally into force of the decision, and, upon request, also to every competent authority of the Member State.

(7) If the application for registration via simplified procedure referred to in paragraph 1 concerns a medicinal product containing a herbal substance, herbal preparation or a combination thereof which are placed on the list of herbal substances, herbal preparations and combinations thereof for use in traditional herbal medicinal products, it is not necessary to submit data set forth in paragraph 3 (d) to (f). If a herbal substance, herbal preparation or a combination thereof are deleted from the list referred to in this paragraph, the Institute shall not revoke the registration granted pursuant to sentence one, if the registration holder files an application for variation to registration and submits particulars and documentation referred to in paragraph 3 (d) to (f) within three months of the date of deletion of the herbal substance, herbal preparation or combination thereof from the list. The implementing legal regulation stipulates the list of herbal substances, herbal preparations and combinations thereof for use in traditional medicinal products.

(8) The labelling and package leaflet of a traditional herbal medicinal product must, apart from data set forth in Sections 37 and 38, include the information:

- a) “The use of this traditional herbal medicinal product is based exclusively on experience from long-standing use”; this information must be, moreover, shown in any advertising for the traditional herbal medicinal product;
- b) Which recommends to the user to consult a medical doctor if the symptoms of the disease persist during the use of the traditional herbal medicinal product or if adverse reactions not mentioned in the package leaflet occur.

As part of the registration procedure, the Institute may require that the nature of the concerned tradition be also shown on the labelling or in the package information.

<sup>45)</sup> Article 16h of Directive No 2001/83/EC of the European Parliament and of the Council As amended by Directive No 2004/24/EC.

## **Section 31**

### **Marketing authorisation procedure**

(1) Within the marketing authorisation procedure, the Institute or the Veterinary Institute shall assess the completeness of the application for marketing authorisation and shall notify the applicant for marketing authorisation of the outcome of such assessment no later than within 30 days of the delivery of the application.

(2) Where the application has been found to be complete, the Institute or the Veterinary Institute shall decide about the application no later than:

- a) 150 days of the date when the applicant for marketing authorisation has been informed that his or her application has been found to be complete, where an application for marketing authorisation of a medicinal product as per Section 27, paragraph 1 is concerned; or
- b) 210 days of the date when the applicant for marketing authorisation has been informed that his or her application has been found to be complete, where other instances of applications for marketing authorisation of medicinal products are concerned.

(3) Where the Institute or Veterinary Institute with whom the application for marketing authorisation has been lodged notes that the application for authorisation is already under examination in another Member State in respect of that medicinal product, it shall not examine the application and shall suspend the procedure. It shall inform the applicant for marketing authorisation that it is necessary to proceed in compliance with the provisions governing mutual recognition of marketing authorisations.

(4) Where the Institute or Veterinary Institute is informed as referred to in Section 26, paragraph 5 (n), that another Member State has already authorised that medicinal product which is the subject of application for authorisation lodged with the Institute or Veterinary Institute, it shall decline this application unless it has been submitted in compliance with the provisions governing mutual recognition of marketing authorisations.

(5) In examining an application submitted as set out in Sections 26 to 30 and with a view to the special nature of homeopathic products and traditional herbal products registered via simplified procedure the Institute or Veterinary Institute:

- a) shall verify whether the particulars and documentation submitted are in compliance with this Act and examine whether the conditions for issuing a registration for the medicinal product are complied with, in particular whether:

1. the medicinal product may be considered on the basis of the submitted documentation as effective, sufficiently safe, and quality,
  2. the benefits of using the medicinal product under the conditions specified by the summary of the product characteristics outweigh the risks associated with its use,
  3. the conditions of good clinical practice, good laboratory practice, and good manufacturing practice have been complied with,
  4. the name of the medicinal product is consistent with its composition and therapeutic effects and may not be confused with the name of another medicinal product which has already been authorised pursuant to Section 25, paragraph 1 or whose application for marketing authorisation is pending with the Institute or the Veterinary Institute and has not been legally rejected or which should be, in accordance with the intention notified to the Agency, the subject-matter of an application for marketing authorisation via a Community procedure;
- b) may submit the medicinal product, its starting materials and, if need be, its intermediate products or other constituents to laboratory testing in order to ensure that the control methods employed by the manufacturer and described in the submitted documentation are sufficient;
  - c) may, in the event that it identifies shortcomings in the examination as per paragraph 1 or 2, require the applicant for marketing authorisation to supplement the submitted data and documentation, or, where appropriate, submit samples for laboratory testing as set forth in letter (b). Where the Institute or Veterinary Institute avails itself of this option, the procedure shall be suspended. The suspension shall commence upon the day when the Institute or Veterinary Institute has made its notice, and the procedure shall continue on the day following the delivery date of the requested supplements to the application for marketing authorisation to the Institute or Veterinary Institute. Likewise, where applicable, the procedure shall be suspended for the period allowed the applicant for marketing authorisation for giving oral or written explanation. Where the suspension of the procedure in assessment referred to in paragraph 1 has reached the minimum of 90 days without interruption or that in assessment referred to in paragraph 2 has reached the minimum of 180 days without interruption, the procedure may be stopped;
  - d) verify whether manufacturers of medicinal products, including persons importing medicinal products from third countries, have created conditions or carry out manufacture in compliance with the particulars supplied pursuant to Section 26, paragraph 5, (d) and carry out controls in accordance with the methods described in compliance with Section 26, paragraph 5 (h);
  - e) may allow manufacturers of medicinal products, including persons importing medicinal products from third countries, in justifiable cases, to have certain stages of manufacture or controls referred to in letter (d) carried out by third parties; in such cases the Institute or Veterinary Institute shall, within the scope of its jurisdiction, verify the designated establishments of these third parties;
  - f) shall assess the classification of the medicinal product for dispensing;
  - g) shall assess the labelling on the outer and immediate packaging and data in the package leaflet and, where necessary, impose an obligation for the applicant for marketing authorisation to indicate on the immediate or outer packaging and, where applicable, in the package leaflet, other particulars essential for the safety of the medicinal product or health protection, including any special precautions relating to the use of the medicinal product with respect to data obtained from pharmacological testing and clinical trials on the medicinal product or from experience gained during the use of the medicinal product once it has been granted marketing authorisation;
  - h) shall, where a veterinary medicinal product is concerned, assess whether the analytical method applied for the determination of residues submitted by the applicant in compliance with Section 26, paragraph 5 (i), item 4, is adequate; within the scope of this assessment the



Veterinary Institute may require a position of the relevant Community reference laboratory or of a national reference laboratory<sup>46)</sup>.

The Institute or Veterinary Institute may abandon verification of facts stipulated by letters (d) and (e) in the case of a manufacturer from a Member State or from a state which has concluded the relevant international agreement<sup>47)</sup> or, where applicable, a manufacturer from a third country for whom the facts stipulated by letters (d) and (e) have been verified by the competent authority of a Member State.

(6) Where a medicinal product containing a genetically modified organism<sup>11)</sup> is concerned, the Institute or the Veterinary Institute shall request an opinion from the Ministry of Environment to examine environmental risks as stipulated by a special legal regulation<sup>11)</sup> and the Ministry of Environment shall issue the opinion within 90 days of the delivery of the request. The Institute or the Veterinary Institute may decide not to request the opinion where such opinion has been submitted together with the application for marketing authorisation or where a risk assessment report concerning environmental risks prepared by the competent authority of the Community has been provided together with the application.

(7) Where human immunological medicinal products are concerned, the Institute shall request an opinion from the Ministry of Health, and where radiopharmaceuticals which are the source of ionizing radiation<sup>13)</sup> are concerned, the Institute or the Veterinary Institute shall request an opinion from the State Office for Nuclear Safety. The Ministry of Health and the State Office for Nuclear Safety shall issue their opinion within the period of 60 days of delivery of the request.

(8) The Institute or the Veterinary Institute shall prepare an assessment report for the medicinal product containing an evaluation of the marketing authorisation dossier with a view to the results of pharmaceutical and preclinical testing and clinical trials on the concerned medicinal product and, for veterinary medicinal products, furthermore with a view to the results of tests for safety and residues of the concerned medicinal product. The assessment report for the medicinal product shall serve as the source material for the issue of marketing authorisation and shall be updated whenever new information significant for the evaluation of quality, safety or efficacy of the concerned medicinal product is brought to the attention of the Institute or the Veterinary Institute.

(9) The assessment within the scope of the marketing authorisation procedure shall not consider industrial property protection and business secret rights and the fact that marketing authorisation is granted or changed shall not be a breach of these rights on the part of the Institute or the Veterinary Institute.

(10) The Institute or the Veterinary Institute shall decline the application for marketing authorisation if it is identified in the course of the marketing authorisation procedure following the verification of data and documents referred to in Sections 26 and 27 that:

- a) the risk-benefit ratio of the medicinal product cannot be considered favourable; where a veterinary medicinal product for zootechnical use<sup>48)</sup> is concerned, it is necessary to take into consideration when evaluating the risk-benefit ratio benefits for the health and wellbeing of animals and safety for consumers;
- b) the medicinal product does not have therapeutic efficacy or its therapeutic efficacy has not been adequately evidenced by the applicant for marketing authorisation;
- c) qualitative and quantitative composition of the medicinal product is not consistent with the labelled composition of the medicinal product;

- d) the submitted data or documentation do not comply with the requirements stipulated by this Act or by directly applicable Community regulations<sup>23)</sup> or the use of the medicinal product is inconsistent with, prohibited or restricted by special legal regulations<sup>17)</sup> or directly applicable Community regulations<sup>49)</sup>;
- e) data submitted together with the application for marketing authorisation are incorrect;
- f) a veterinary medicinal product intended for administration to one or more animal food-producing species contains pharmacologically active substances which are not listed for the concerned animal species or category for which the product is intended in Annex I, II or III of the directly applicable Community regulation<sup>5)</sup>; if the veterinary medicinal product is intended for more animal species, the Veterinary Institute shall decline the application for marketing authorisation only for that food-producing animal species or category for which the pharmacologically active substance is not listed in Annex I, II or III of the directly applicable Community regulation<sup>5)</sup>;
- g) the withdrawal period, where a veterinary medicinal product is concerned, is not sufficiently long to ensure that food obtained from animals to whom the veterinary medicinal product has been administered does not contain residues of this product which might present a risk to the health of the consumer, or the withdrawal period has not been sufficiently evidenced; or
- h) the veterinary immunological product is inconsistent with the implementation of veterinary measures with a view to containing or overcoming animal infections<sup>18)</sup>.

(11) Provisions of paragraph 10 (f) shall not apply where a veterinary medicinal product intended for animals of the Equidae family declared, in compliance with a directly applicable Community regulation<sup>16)</sup>, not to be intended for slaughter for human food production purposes is concerned; such veterinary medicinal product, however, must not contain pharmacologically active substances listed in Annex IV to a directly applicable Community Regulation<sup>5)</sup>, nor may it be intended for an indication which is listed in the approved summary of the product characteristics of an authorised veterinary medicinal product intended for animals of the Equidae family.

<sup>46)</sup> Section 51a of Act No 166/1999 Coll., as amended by Act No 131/2003 Coll.  
Section 17 of Decree No 291/2003 Coll., as amended by Decree No 232/2005 Coll.

<sup>47)</sup> For example, Agreement on mutual recognition in relation to conformity assessment, certificates and markings between the European Community and Australia (OJ L 229, 17. 8. 1998, p. 3), Agreement on mutual recognition in relation to conformity assessment between the European Community and New Zealand (OJ L 229, 17. 8. 1998, p. 62), Agreement on mutual recognition between the European Community and Canada (OJ L 280, 16. 10. 1998, p. 3), Agreement on mutual recognition between the European Community and Japan (OJ L 284, 29. 10. 2001, p. 3), Agreement between the European Community and the Swiss Confederation on mutual recognition in relation to conformity assessment (OJ L 114, 30. 4. 2002, p. 369).

<sup>48)</sup> For example, Section 2 (h) of Decree No 291/2003 Coll.

<sup>49)</sup> For example, Council Decision No 1999/879/EEC of 17 December 1999 concerning the placing on the market and administration of Bovine somatotrophin (BST) and repealing Council Decision 90/218/EEC.

## **Section 32**

### **Marketing authorisations**

(1) A marketing authorisation shall always contain the name of the medicinal product, marketing authorisation number of the medicinal product, information about the marketing authorisation holder, or, if applicable, about the person authorised by the marketing

authorisation holder to act on his or her behalf in matters governed by this Act. The marketing authorisation shall, furthermore, always contain information about

- a) classification of the human medicinal product for dispensing or classification of the veterinary medicinal product for dispensing and use;
- b) any addictive substance or precursor that may be contained in the medicinal product<sup>40)</sup>.

The marketing authorisation shall contain in the form of an annex, an approved summary of the product characteristics and, unless stipulated otherwise by this Act, the text of package leaflet necessary for the use and handling of the medicinal product. Where homeopathic products registered pursuant to Section 28 or 29 are concerned, the summary of the product characteristics shall not form an annex to the marketing authorisation.

(2) The marketing authorisation shall be valid for five years of its coming legally into effect; the provision of Section 34, paragraph 3 shall not be prejudiced hereby.

(3) Under exceptional circumstances, and only if the disease for which the medicinal product is intended occurs rarely, or with a view to the level of scientific knowledge and medical ethics and after a consultation with the applicant for marketing authorisation, the marketing authorisation may be granted together with imposing an obligation pertaining in particular to ensuring or monitoring the safety of the medicinal product. Compliance with the obligations imposed shall be assessed each year and this assessment shall form the basis for deciding whether to maintain the marketing authorisation. The list of these obligations shall be forthwith published by the concerned Institute together with due dates and periods for compliance in its information media. The implementing legal regulation stipulates the cases of exceptional circumstances and the scope of documentation to be submitted.

(4) The marketing authorisation may, furthermore, contain:

- a) where immunological medicinal products or blood derivatives are concerned, an obligation to submit samples from each batch of the bulk or the finished medicinal product for examination by the Institute or the Veterinary Institute before release onto the market as stipulated by Section 102, paragraph 1;
- b) the obligation to submit periodically updated safety reports for the medicinal product pursuant to Section 92, paragraph 7 or Section 96 ,paragraph 5 in predefined periods; or
- c) another obligation the purpose of which is to safeguard the quality, safety or efficacy of the medicinal product.

(5) Together with the issue of the marketing authorisation the Institute or the Veterinary Institute shall assign the medicinal product with a code which allows for electronic processing, for an explicit identification of each presentation of the medicinal product, and serves for filing and, where human medicinal products are concerned, for potential identification purposes when establishing prices and reimbursements from public health insurance. The Institute or the Veterinary Institute shall inform the applicant about this code and shall publish the code within the list of authorised medicinal products in its information media.

### **Section 33**

#### **The rights and obligations of marketing authorisation holders**

(1) After a marketing authorisation has been issued, the marketing authorisation holder must introduce any changes that may be required to enable the authorised medicinal product to be manufactured, subjected to quality control, and used in compliance with technical and

scientific progress and available scientific knowledge, including information obtained from post-authorisation safety monitoring of the medicinal product. Where the changes which are being introduced require follow-up updates of information about the medicinal product, the necessary changes to the summary of the product characteristics, package leaflet or labelling of the medicinal product shall be made. The marketing authorisation holder shall be obliged to inform about all bans or restrictions imposed by the competent authorities in any country where the medicinal product is placed onto the market, and on any other new information which might affect the risk-benefit assessment of the concerned medicinal product no later than within 15 days of learning of them. The Institute or the Veterinary Institute may, for the purposes of ongoing risk-benefit ratio assessment, ask the marketing authorisation holder at any time to provide data evidencing that the risk-benefit ratio remains favourable.

(2) After the issue of the marketing authorisation the marketing authorisation holder shall notify the Institute or the Veterinary Institute of the dates of actual placement of the medicinal product onto the market in the Czech Republic by pack size and packaging type; likewise, the marketing authorisation holder shall notify the Institute or the Veterinary Institute of the suspension or termination of marketing of the medicinal product in the Czech Republic no later than two months in advance thereof. Where exceptional circumstances arise, such notification may be made no later than concurrently with the actual suspension or termination of marketing of the medicinal product in the Czech Republic. Should the marketing of the medicinal product be resumed, the marketing authorisation holder shall be obliged to forthwith notify the Institute or the Veterinary Institute to this effect. Upon request of the Institute or the Veterinary Institute, the marketing authorisation holder shall provide to the Institute or the Veterinary Institute data on the volumes of supplies of the medicinal product and data on the volumes of prescribing of the medicinal product available thereto.

(3) The marketing authorisation holder shall be, moreover, obliged to:

- a) ensure that the properties of the authorised medicinal product continuously complies with the documentation submitted within the marketing authorisation procedure and within subsequent variations thereto;
- b) have a document evidencing quality controls of the medicinal product conducted in compliance with the marketing authorisation dossier for each batch of the medicinal product;
- c) where a risk to the health of treated persons or animals arises, adopt all available measures aimed at remedying the situation and limiting the adverse effects of the authorised medicinal product to the lowest practicable degree, and notify the Institute or the Veterinary Institute thereof;
- d) upon request of the Institute or the Veterinary Institute provide necessary co-operation, including the provision of samples of the authorised medicinal product for the purposes of laboratory control and submit substances in quantities sufficient for the conduct of the controls for the presence of residues of the concerned veterinary medicinal product and provide necessary cooperation in the implementation of an analytical method to detect residues of veterinary medicinal products in the national reference laboratory as set forth by legal regulations<sup>50)</sup>;
- e) inform forthwith the Institute or the Veterinary Institute about any change to the data necessary for co-operation between the Institute or the Veterinary Institute and the marketing authorisation holder; these changes shall not be considered variations to the marketing authorisation;
- f) ensure the implementation and maintenance of a system guaranteeing the filing of each promotional sample of a medicinal product, its traceability and compliance with storage conditions, including transport in compliance with the summary of the product characteristics;

g) where a human medicinal product is concerned the marketing authorisation holder shall be, moreover, obliged to:

1. establish and operate a public scientific service in charge of information about the medicinal products for which he or she is the holder of the marketing authorisation, and inform the Institute about any potential change to the address of this service; the public scientific service must not serve for promotional purposes<sup>51)</sup> and information provided thereby must be consistent with the summary of the product characteristics,
  2. ensure that the sales representatives are qualified adequately to the nature of the medicinal product, ensure, in compliance with Section 91, paragraph 2 (a) the hand-over of information obtained by sales representatives from the visited persons on the use of the promoted medicinal products, in particular information on any adverse reactions, and verify whether the sales representatives fulfil the obligations imposed upon them by a special legal regulation<sup>51)</sup>,
  3. ensure that samples of any other promotional materials are stored together with information about the target group of each promotion, method of its dissemination, and date of first publication,
  4. ensure, following the placement of the medicinal product on the market, that the medicinal product is available as needed by patients in the Czech Republic by supplying in it in adequate quantities and time intervals; the implementing legal regulation stipulates the method of safeguarding the needs of patients in terms of the quantities and time intervals of supplies of medicinal products;
- h) submit to the Institute or the Veterinary Institute, after the marketing authorisation comes legally into force or after such variation which has been reflected in the presentation of the product or its packaging is implemented, one specimen packaging of the product prior to the placement of the product onto the market; in justified cases the concerned institute may waive such requirement.

(4) If the marketing authorisation holder authorises another person to act on his or her behalf in matters governed by this Act, he or she shall inform the Institute or the Veterinary Institute to this effect.

(5) The marketing authorisation holder shall be responsible for damages arising due to the effects of the medicinal product not specified in the summary of the product characteristics; he or she may not be released from this responsibility. The marketing authorisation holder shall be responsible for damages arising due to the effects of the medicinal products specified in the summary of the product characteristics only if it is evidenced that he or she is guilty of such damage.

<sup>50)</sup> Section 51a of Act No 166/1999 Coll., as amended by Act No 131/2003 Coll.  
Sections 17 and 18 of Decree No 291/2003 Coll., as amended by Decree No 232/2005 Coll.

<sup>51)</sup> Act No 40/1995 Coll., on Advertising Regulation and on the Amendments to Act No 468/1991 Coll., on the Operation of Radio and Television Broadcasting, as amended.

## **Section 34**

### **Renewal, rejection, suspension, and revocation of marketing authorisation**

(1) The validity of the marketing authorisation may be renewed after five years based on the review of the risk-benefit ratio by the Institute or the Veterinary Institute. The marketing authorisation holder may apply with the Institute or the Veterinary Institute for renewal of the validity of the marketing authorisation at least six months before the expiry date of the marketing authorisation. Where a human medicinal product is concerned, the Marketing

authorisation holder shall provide to the Institute data and documentation related to the quality, safety, and efficacy, including any changes implemented since the issue of the marketing authorisation so that complex data and documentation for the concerned medicinal product be available. Where a veterinary medicinal product is concerned, the marketing authorisation holder shall provide to the Veterinary Institute a summary listing of all data and documentation submitted with respect to the quality, efficacy, and safety of the veterinary medicinal product together with the application for marketing authorisation or subsequently within the scope of variations to marketing authorisation. The application for renewal of the validity of marketing authorisation must contain data about the applicant, and, moreover, data specifying the subject-matter of the application and its rationale. Once the validity of marketing authorisation has been once renewed pursuant to this Act, it shall be effective for an unlimited period of time. The Institute or the Veterinary Institute may, however, based on justified reasons pertaining to pharmacovigilance, decide in the marketing authorisation renewal procedure about an additional renewal for further five years; nevertheless, such decision may only be adopted once. The provisions of sentences six and seven shall be without prejudice to the possibility to revoke or suspend marketing authorisation for reasons stipulated in paragraph 5 or 6. The implementing legal regulation stipulates the scope of particulars and documentation submitted together with the application for renewal of the validity of the marketing authorisation.

(2) The marketing authorisation renewal procedure shall be likewise governed by the provisions applicable to marketing authorisation procedure. The Institute or the Veterinary Institute shall decide about such application within 90 days of the submission of a complete application at the latest. If the application for the renewal of the validity of the marketing authorisation is delivered to the Institute or to the Veterinary Institute within the period stipulated in paragraph 1, the medicinal product shall be considered authorised until the date of coming legally into force of the decision on the application for renewal of the validity of the marketing authorisation.

(3) The marketing authorisation shall expire, if the medicinal product is not placed onto the market in the Czech Republic within three years of the date of coming legally into force of the marketing authorisation; where a generic product is concerned, this period shall commence only on the end date of the period for which the generic product may not be marketed as per Section 27, paragraph 1. If an authorised medicinal product placed on the market in the Czech Republic is not present on the market in the Czech Republic in the course of three years, the marketing authorisation for this medicinal product shall expire. The implementing legal regulation stipulates the criteria specifying the time, place, and quantities which must be met in order to consider the medicinal product placed or present on the market. The Institute or the Veterinary Institute may, under exceptional circumstances and with a view to public health protection or protection of animals, decide that the marketing authorisation for a medicinal product shall not expire; either on its own accord or on the basis of a justified application of the marketing authorisation holder submitted no later than three months before the end date of the period referred to in sentence one or sentence two. The Institute or the Veterinary Institute shall issue its decision prior to the expiry of the period referred to in sentence one or sentence two. The expiry of a marketing authorisation referred to in this paragraph as well as the decision on the expiry or continuation of validity of the marketing authorisation and a rationale thereof pursuant to this paragraph shall be published by the Institute or by the Veterinary Institute in its information media.

(4) If the labelling of the medicinal product or the package leaflet are not consistent with the provisions of this Act or are not in compliance with the data provided in the summary of the product characteristics or, if applicable, in the proposal thereof, the Institute or the Veterinary Institute shall reject the application for marketing authorisation or variation thereto, or shall express its rejection of the variation pursuant to Section 35, paragraph 12.

(5) The Institute or the Veterinary Institute shall change, suspend or revoke the marketing authorisation of a medicinal product, if:

- a) the use of the medicinal product under normal conditions is harmful;
- b) the therapeutic efficacy of the medicinal product is lacking;
- c) the risk-benefit ratio of the medicinal product used under normal conditions is not favourable;
- d) the veterinary medicinal product is lacking therapeutic efficacy as per letter (b) in those animal species for which it is intended;
- e) the qualitative and quantitative composition of the medicinal product is inconsistent with the documentation submitted within the scope of the marketing authorisation procedure and within subsequent variations to marketing authorisation;
- f) the withdrawal period of the veterinary medicinal product is not long enough to ensure that foodstuffs obtained from the animals treated with the veterinary medicinal product do not contain substances which might constitute a health hazard to the consumer;
- g) the veterinary medicinal product is offered for use which is prohibited or restricted by a special legal regulation<sup>18)</sup>,
- h) the veterinary immunological medicinal product interferes with the conduct of veterinary measures adopted in order to contain or overcome animal infections;
- i) data submitted with the application for marketing authorisation are incorrect or have not been adjusted pursuant to Section 33, paragraph 1 in compliance with Section 35;
- j) the control referred to in Section 64 (p) has not been performed;
- k) the obligations stipulated by Section 32, paragraph 3 or paragraph 4 (c) has not been complied with; or
- l) the Institute or the Veterinary Institute has not been provided with information set forth in Section 33, paragraph 1 or Section 33, paragraph 3 (c).

(6) The Institute or the Veterinary Institute shall suspend or revoke marketing authorisation for groups of medicinal products or for all medicinal products of the concerned manufacturer if the manufacturer fails to comply with the conditions evidenced as per Section 63, paragraph 1 and the obligation to notify changes.

(7) The suspension of marketing authorisation of a medicinal product as set forth in paragraph 5 or 6 shall be applied by the Institute or the Veterinary Institute where the information obtained is incomplete or such shortcomings are identified which may be eliminated. The revocation of marketing authorisation of a medicinal product as set forth in paragraph 5 or 6 shall be applied by the Institute or the Veterinary Institute where the information obtained are complete or such shortcomings are identified which may not be eliminated. The Institute or the Veterinary Institute shall, in its decision on the suspension of marketing authorisation of a medicinal product, establish the rights and obligations of the marketing authorisation holder for the duration of the suspension of marketing authorisation. After the reasons for which the marketing authorisation has been suspended are eliminated the Institute or the Veterinary Institute shall decide on the termination of the suspension of marketing authorisation. Where the reasons for suspension of the marketing authorisation have not been eliminated, the Institute or the Veterinary Institute shall decide on the revocation of the marketing

authorisation of the medicinal product. An appeal from the decision to suspend marketing authorisation of a medicinal product shall have no suspensory effect.

(8) Marketing authorisation of a medicinal product

a) must not be declined, suspended or revoked for reasons other than those stipulated by this Act;

b) shall expire with the expiry of the period for which it has been issued, by the death or dissolution of the marketing authorisation holder.

(9) The person who has been the marketing authorisation holder shall be obliged, following the coming legally into force of the decision on revocation of marketing authorisation, or where the marketing authorisation ceases validity upon its expiry, to forthwith recall the medicinal product from circulation. Where the health of people or animals may be jeopardised by the immediate recall of the medicinal product from circulation, the Institute or the Veterinary Institute shall decide about a gradual recall of the medicinal product. In such case, the person who has been the marketing authorisation holder, shall for the period when the medicinal product is present on the market, continue to be subjected to the obligations as if it was still the marketing authorisation holder. Where dissolution of the marketing authorisation holder has occurred without a legal successor, the recall from circulation shall be organised by the Institute or the Veterinary Institute.

## **Section 35**

### **Variations to marketing authorisation**

(1) Prior to the implementation of any change to the marketing authorisation, the marketing authorisation holder shall be obliged to ask the Institute or the Veterinary Institute for approval thereof or announce or notify the change. A variation to the marketing authorisation shall mean any change to the content of the particulars and documentation as opposed to its status upon the granting of the marketing authorisation or approval of the last variation thereto.

(2) The application for variation to marketing authorisation must contain data about the applicant as well as data specifying the subject-matter of the application and a rationale thereof. The implementing legal regulation stipulates the scope of particulars and the scope of documentation to be submitted by individual types of variations to marketing authorisation which are announced, notified or which require the issue of an approval. The implementing legal regulation furthermore specifies those variations to marketing authorisation which are of administrative nature, do not require an expert assessment and are only announced to the Institute or the Veterinary Institute, so that the definition of the variations is consistent with the classification determined by a directly applicable Community regulation governing the assessment of variations to marketing authorisation within the scope of the Mutual Recognition Procedure. The Institute or the Veterinary Institute shall, within 14 days of delivery of the notification, endorse the notified variation to marketing authorisation for the marketing authorisation holder if the notification complies with the particulars stipulated by the implementing legal regulation. The period referred to in the previous sentence shall be considered satisfied, if the written notification was provably posted on the last day of the period, either using postal services or electronically<sup>52)</sup>. If the notification fails to comply with these requirements, the Institute or the Veterinary Institute shall, within the same period of time, advise the marketing authorisation holder that the notified variation to marketing authorisation cannot be endorsed.



(3) The implementing legal regulation shall define those variations to marketing authorisation which are predominantly of administrative nature, but require expert assessment; the definition of the variations must be consistent with the classification stipulated by a directly applicable Community regulation governing the assessment of variations to marketing authorisation within the scope of the Mutual Recognition Procedure. These changes shall be considered approved if the Institute or the Veterinary Institute does not give any reasons for which it would consider it necessary to amend the notification of the variation to marketing authorisation within 30 days of delivery of the notification of the variation to marketing authorisation thereto; the period shall be considered satisfied if the written advice of the concerned institute was provably posted on the last day of the period, either using postal services or electronically<sup>52)</sup>. Where the Institute or the Veterinary Institute advises of such reasons, the applicant for variation to marketing authorisation may amend the application for variation to marketing authorisation within the maximum of 30 days of delivery of the written advice in a manner taking into account the reasons. The applicant for variation to marketing authorisation may amend the application for variation to marketing authorisation on the basis of an advice of the Institute or the Veterinary Institute only once. If the Institute or the Veterinary Institute fails to receive the amendment to the application for variation to marketing authorisation within the predefined period, it shall decline this application within the period of 30 days of the idle expiry of the period for amendment. If the Institute or the Veterinary Institute receives within the predefined period an amendment to the application which is incomplete or otherwise defective, it shall also decline the application for variation to the marketing authorisation within 30 days of the delivery of the amendment. If the Institute or the Veterinary Institute does not do so, the notified variation to marketing authorisation shall be considered approved.

(4) The procedure concerning a variation to marketing authorisation requiring the issue of an approval of the variation to marketing authorisation shall be likewise governed by the provisions of this Act relevant to marketing authorisation procedure; the Institute or the Veterinary Institute shall decide about the application for such variation to marketing authorisation no later than within 90 days of the delivery of the complete application for variation to marketing authorisation thereto.

(5) The provisions of paragraphs 1 to 4 shall be without prejudice to the obligation of the marketing authorisation holder to adopt urgent safety restrictions in the event of a hazard presented to public health or to the health of animals. The marketing authorisation holder must forthwith and in a provable manner inform the Institute or the Veterinary Institute about his or her intent to adopt an urgent safety restriction. Unless the Institute or the Veterinary Institute informs the marketing authorisation holder, within 24 hours of the delivery of this information to the Institute or the Veterinary Institute, about its rejection of the proposed measures, the urgent safety restrictions may be applied. The marketing authorisation holder, however, must within 15 days submit an application for authorisation of the variation to marketing authorisation to the Institute or the Veterinary Institute pursuant to the procedure set forth in paragraphs 1 to 4.

(6) An urgent safety restriction pursuant to paragraph 5 shall mean a temporary change of information about the medicinal product made by the marketing authorisation holder particularly in respect of therapeutic indications, posology, target species, withdrawal periods, contraindications or precautions for the medicinal product in question with a view to new information which is of importance for the safe use of the medicinal product.

(7) The Institute or the Veterinary Institute may impose the adoption of temporary urgent safety restrictions upon the marketing authorisation holder. In such case the marketing authorisation holder shall be obliged to forthwith implement these restrictions and lodge, within 15 days, an application for authorisation of the variation to marketing authorisation with the Institute or the Veterinary Institute using the procedure set forth in paragraphs 1 to 4.

(8) A medicinal product complying with the data and documentation prior to the implementation of the variation to marketing authorisation may continue, unless stipulated otherwise in the decision about the variation to marketing authorisation, to be marketed for a period not exceeding 180 days of the approval of the variation. Such product may continue to be dispensed, sold where selected medicinal products are concerned, and used in the delivery of health care or veterinary care until the expiry of its shelf life. After the expiry of the 180-day period, the medicinal product may continue to be marketed only if compliant with the conditions stipulated by the authorisation of the variation to the marketing authorisation or with the conditions laid down in paragraph 2 or 3.

(9) Where a change to the composition of human influenza vaccine based upon recommendations of the World Health Organisation is concerned, the Institute may, in the event of pandemics recognised by the World Health Organisation, allow the marketing authorisation holder to carry out such change immediately after the submission of a complete application for variation to marketing authorisation; the decision about the variation to marketing authorisation shall be issued by this Institute using the procedure laid down in paragraphs 1 to 4.

(10) Where changes in the Annexes to the directly applicable Community regulation<sup>5)</sup> are concerned, the holder of marketing authorisation of a veterinary medicinal product shall forthwith apply for variation to marketing authorisation pursuant to paragraphs 1 to 4, so that the marketing authorisation of the veterinary medicinal product was compliant with the requirements of the said regulation. Should the marketing authorisation holder fail to do so, the Veterinary Institute shall, within 60 days of publication of the relevant change in the Annexes to the directly applicable Community regulation<sup>5)</sup> in the Official Journal of the European Union order the concerned marketing authorisation holder to adopt temporary urgent safety restrictions as referred to in paragraph 7.

(11) Where a change in the classification of a human medicinal product has been permitted on the basis of significant preclinical tests or clinical trials, the Institute must not take into account the results of these tests or trials in the assessment of an application for a change in the classification of another medicinal product containing the same substance submitted by another applicant for marketing authorisation or marketing authorisation holder for the period of one year of the authorisation of the first variation to marketing authorisation.

(12) Any proposed changes to the labelling of a medicinal product or changes in the package leaflet which are not related to the summary of the product characteristics must be notified to the Institute or Veterinary Institute by means of an application for variation to marketing authorisation. If the Institute or the Veterinary Institute does not request an amendment or supplementation of the application or does not express its rejection of the proposed change within 90 days of the delivery of the notification, the applicant may carry out the change. The applicant may amend the application upon request only once. If, within 30 days of the delivery of the request, the Institute or the Veterinary Institute does not receive an answer or

receives an answer which is not satisfactory, it shall decline the application within the next 30 days. If the Institute or the Veterinary Institute does not do so, the notified change shall be considered approved. The application must contain data about the applicant as well as data about the subject-matter of the application and a rationale thereof. The provisions of paragraph 8 shall likewise apply to the placement of a medicinal product onto the market in a form consistent with the documentation prior to the implementation of the change. The implementing legal regulation stipulates the scope of particulars to appear in the application and the scope of the documentation to be submitted.

<sup>52)</sup> Act No 227/2000 Coll., on Electronic Signature and on Amendments to Some Related Acts (Act on Electronic Signature), as amended.

## **Section 36**

### **Transfer of marketing authorisation**

(1) The marketing authorisation holder may apply for transfer of marketing authorisation to another natural or legal person. The application must contain data about the applicant as well as data specifying the subject-matter of the applicant and a rationale thereof, and proposed date when the transfer of the marketing authorisation should be carried out. The application must be supported by an approval issued by the person to whom the marketing authorisation is to be transferred. The application may only be lodged with regard to one marketing authorisation. The application must be accompanied with a proof of payment of an administrative fee pursuant to a special legal regulation<sup>41)</sup> or, if applicable, with a proof of reimbursement of costs referred to in Section 112 if required in advance. The implementing legal regulation stipulates the scope of data and documentation to be submitted.

(2) The Institute or the Veterinary Institute shall issue its decision approving or rejecting the application within 30 days of the delivery of the application.

(3) The decision on the transfer of marketing authorisation shall specify the date as of which the transfer of marketing authorisation is to be conducted. The application may be rejected only if:

- a) data and documentation submitted with the application remain incomplete or otherwise defective even following a request for amendment thereof; or
- b) the person to whom marketing authorisation is to be transferred, does not reside or is not established<sup>21)</sup> within the territory of any of the Member States.

(4) The new marketing authorisation holder shall fully undertake the rights and obligations of the previous marketing authorisation holder. The course of the periods allowed to the previous marketing authorisation holder shall not be affected by the transfer of the marketing authorisation. A medicinal product consistent with the data and documentation prior to the implementation of the transfer of the marketing authorisation may continue, unless stipulated otherwise in the decision about the transfer of the marketing authorisation, to be marketed for a period not exceeding 180 days of the transfer of marketing authorisation. Such product may continue to be dispensed, sold where selected medicinal products are concerned, and used in the delivery of health care or veterinary care until the expiry of its shelf life.

## **Section 37**

### **Labelling and package leaflet of a medicinal product**

(1) Data shown on the outer and immediate packaging of a medicinal product must be consistent with the approved summary of the product characteristics. The implementing legal regulation stipulates the scope of data to be shown on the outer and immediate packaging of a medicinal product, data to be shown on small and special types of packaging, including packaging of medicinal products containing radionuclides, as well as the conditions governing the statement of data for identification of the medicinal product by the European Article Number (EAN) which serves for the purposes of electronic processing, and, where appropriate, the statement of the established classification of the medicinal product for the purposes of dispensing. Data shown on the packaging of the medicinal product must be easily legible, clearly comprehensible, and indelible. No elements of promotional nature shall be permissible on the packaging of a medicinal product. The name of the medicinal product must be provided on the outer packaging unless stipulated otherwise in the marketing authorisation.

(2) In the case of medicinal products authorised within the Community whose marketing authorisation has been issued in compliance with a directly applicable Community regulation<sup>24)</sup>, the Institute or the Veterinary Institute may approve or request that the outer packaging shows other data regarding distribution, marketing or other necessary measures. The implementing legal regulation stipulates the scope of these data and the method of their presentation.

(3) Each medicinal product must be accompanied by a package leaflet, with the exception of cases where all data from the package leaflet are shown directly on the labelling of the medicinal product in a manner stipulated by the implementing legal regulation. The holder of the marketing authorisation of a human medicinal product shall be obliged to ensure that data from the package leaflet of the human medicinal product are, upon request of the blind or visually impaired or their organisation, made available in a format intended for the blind and visually impaired.

(4) With the exception of homeopathic products, the package leaflet must be drawn up in compliance with the summary of the product characteristics and must be easily legible and clearly comprehensible for the patient where a human medicinal product is concerned, or for persons using veterinary medicinal products. In the case of human medicinal products the package leaflet must reflect the outcomes of consultations with target patient groups in order to ensure its legibility and clarity. The outcomes of consultations carried out within the framework of the Community may also be used as the outcomes of consultations referred to in the previous sentence. No elements of promotional nature shall be permissible in package leaflets.

(5) Data shown on the packaging of a medicinal product and in the package leaflet must be in the Czech language; where these are conveyed in several languages, the contents thereof must be identical. The scope of data and structure of the package leaflet is stipulated by the implementing legal regulation.

(6) A homeopathic product must be labelled on the packaging and in the package leaflet with the words “homeopathic product”, where a human homeopathic product is concerned, or with the words “veterinary homeopathic product”, where a veterinary homeopathic product is concerned. Furthermore, the packaging and the package leaflet of a homeopathic product must show only the information stipulated by this Act and by the implementing legal regulation governing package leaflets.

## **Section 38**

The Institute or the Veterinary Institute shall in the marketing authorisation exempt the labelling and package leaflets of medicinal products from the obligation to show certain particulars, where medicinal products not intended for direct use by patients are concerned; where medicinal products subject to medical prescription are concerned, the Institute or the Veterinary Institute shall, in cases justified by public health protection and by ensuring the availability of the product, permit a marketing authorisation of the medicinal product or release of individual batches of the medicinal product onto the market even if the information shown on the labelling are in a language other than the Czech. The implementing legal regulation stipulates the cases where it is permissible to show data on the labelling in a language other than Czech.

## **Section 39**

### **Classification of human medicinal products for the purposes of dispensing and sale of selected pharmaceuticals**

(1) Within the scope of marketing authorisation procedure the Institute shall determine whether the medicinal product shall be subject to medical prescription or whether the medicinal product may be dispensed without medical prescription while subject to a restriction or whether it may be dispensed without medical prescription.

(2) Medicinal products shall be available only on medical prescription where they:

- a) can present a jeopardy either directly or indirectly even when used correctly if taken without medical supervision;
- b) are frequently and to a very wide extent used incorrectly, and as a result can present a direct or indirect jeopardy to human health;
- c) contain substances or preparations therefrom the activity of or adverse reactions to which require further investigation or
- d) are intended for parenteral administration.

(3) A medicinal product shall be dispensed also without medical prescription, subject to restriction, if it does not comply with the criteria stipulated in paragraph 2 and may present a direct or indirect jeopardy to human health due to the fact that it is frequently and to a wide extent used incorrectly or an expert consultation with a pharmacist is essential for its proper use. Such medicinal product may only be dispensed to the person for whom it is intended, and the pharmacist shall be obliged to maintain records of its dispensing within the scope stipulated by the implementing legal regulation. Details of the expert assessment of conditions of use of the medicinal product to be conducted by the pharmacist and further restrictions may be established by the Institute in the marketing authorisation; such restriction shall represent, in particular, determination of the age limit of the natural person who requests the dispensing of such medicinal product, specification of the dose for individual administration or restriction of mail-order dispensing.

(4) A medicinal product which does not meet the criteria referred to in paragraphs 2 and 3 may be dispensed without medical prescription.

(5) When establishing whether a medicinal product shall be subject to medical prescription the Institute shall, moreover, consider whether the medicinal product:

- a) contains, in a non-exempt quantity, a substance classified as narcotic or psychotropic or a precursor<sup>40</sup>);
- b) can, if incorrectly used, present a substantial risk of medicinal abuse, lead to addiction or be misused for illegal purposes<sup>40</sup>);
- c) is, because of its pharmaceutical characteristics or novelty or in the interest of public health protection, reserved for disease treatments or diagnostics which may only be conducted in inpatient healthcare facilities or in healthcare facilities with adequate diagnostic equipment, even if the administration of the medicinal product and follow-up of the patient may be conducted elsewhere; or
- d) is intended for outpatients care but its use may produce very serious adverse reactions requiring that a medical prescription is drawn up as directed by a specialist and special supervision is ensured during treatment.

(6) The Institute may waive individual assessment of a medicinal product as per the criteria established by paragraphs 2 and 5 if it specifies, having regard to the active substance, the maximum single dose, maximum daily dose, the strength, the pharmaceutical form, certain types of packaging of the medicinal product or other circumstances of use of the medicinal product.

(7) Within the scope of the marketing authorisation renewal procedure, or when new facts are brought to the attention of the Institute, the Institute shall examine the classification of the medicinal product for the purposes of dispensing applying the decision criteria established by paragraphs 2 and 5. Where it concludes that it is necessary to amend the method of dispensing, it shall amend the method of dispensing by means of its decision about the renewal of the marketing authorisation; where new facts arise it shall initiate a procedure for variation to the marketing authorisation.

(8) In the case of dispensing without medical prescription, the Institute shall decide whether the medicinal product may be classified as a selected medicinal product with a view to safety assurance. The implementing legal regulation stipulates individual groups of medicinal products which may be classified as selected medicinal products, and characteristics thereof.

## **Section 40**

### **Classification of veterinary medicinal products for the purposes of dispensing and use**

(1) Within the scope of marketing authorisation procedure the Veterinary Institute shall establish whether the authorised medicinal product shall be subject to medical prescription or not.

(2) In the marketing authorisation, the Veterinary Institute shall subject a veterinary medicinal product to medical prescription if:

- a) it contains, in a non-exempt quantity, a substance classified as narcotic or psychotropic or a precursor<sup>40</sup>);
- b) the use of this medicinal product in the delivery of veterinary care is subject to restrictions imposed by a special legal regulation<sup>18</sup>) or by other Community legal regulations;
- c) it is a medicinal product in respect of which special precautions must be taken by the veterinarian who prescribes, uses or dispenses the medicinal product, in order to limit the risks presented to:
  - 1. target animal species,
  - 2. persons administrating the medicinal product to the animals,

3. the environment,

d) the medicinal product is intended for the treatment of pathological conditions which require a precise medical diagnosis or the use of which may cause effects that may adversely affect subsequent diagnostic or therapeutic procedures;

e) it contains an active substance which has been authorised in medicinal products for less than five years; or

f) it is a medicinal product intended for food-producing animals; the Veterinary Institute may, within the scope of the marketing authorisation, establish that the medicinal product may be dispensed without medical prescription, if the administration of the product does not require special qualification or abilities and the product does not present a direct or indirect jeopardy to:

1. animals to whom it is administered,

2. persons who use it,

3. consumers of animal foodstuffs obtained from the animals treated with the product, and

4. the environment.

The implementing legal regulation lays down, in compliance with the conditions set forth in letter (f), the cases where the marketing authorisation stipulates that the medicinal product intended for food-producing animals may be dispensed without medical prescription, incl. the definition of the method of assessment thereof.

(3) In the case of medicinal products upon which the restriction of prescription-only dispensing has not been imposed, the Veterinary Institute shall, furthermore, with a view to safety assurance, decide whether the medicinal product may be classified as a selected medicinal product. The implementing legal regulation stipulates individual groups of medicinal products which may be classified as selected medicinal products, and characteristics thereof.

(4) With a view to the risks associated with the use of the concerned medicinal product, the Veterinary Institute shall, upon granting marketing authorisation, furthermore stipulate in the marketing authorisation any potential restrictions of persons authorised to use veterinary medicinal products and the classification of the veterinary product only for use by a veterinarian.

(5) The Veterinary Institute shall by means of the marketing authorisation restrict the veterinary medicinal product subject to medical prescription to exclusive use by a veterinarian, if it is a medicinal product:

a) whose risk-benefit ratio is such that before its use or subsequently it is necessary to adopt special professional measures to limit the risk associated with the use of the medicinal product;

b) which, if used incorrectly or in the case of an incorrect medical diagnosis, presents an increased risk of occurrence of serious adverse reactions or adverse reactions which occur in man due to the use of the veterinary medicinal product;

c) the use of which requires special professional competence or the safe use of which requires specialised technical equipment; or

d) which presents an increased risk of its possible abuse in the delivery of veterinary care with a view to a breach of the rules established by veterinary care authorities in the sphere of prevention or combating animal infections, with regard to the abuse aimed at an increased utility of animals or other forms of abuse.

## **Section 41**

(1) For the purposes of obtaining a marketing authorisation of a medicinal product in several Member States, of which the Czech Republic is one, the applicant for a marketing authorisation shall submit to the Institute or to the Veterinary Institute and to the competent authorities in these Member States an application for marketing authorisation based on an identical marketing authorisation dossier. The marketing authorisation dossier shall contain data and documents referred to in Section 26. The applicant shall ask the competent authority of one of the Member States to act as the authority of a Reference Member State and to prepare an assessment report for the medicinal product as per paragraph 2 or 3; where veterinary medicinal products are concerned, the assessment report may also contain an evaluation for the purposes of extending the 10-year period referred to in Section 27, paragraph 2 (b) or the period referred to in Section 27, paragraph 6 (b). If the applicant requires that the Czech Republic acts as the Reference Member State, he or she shall apply therefor with the Institute or the Veterinary Institute which, as well as the applicant, shall proceed in compliance with the guidance issued by the group of representatives of the competent authorities of the Member States coordinating this marketing authorisation procedure (hereinafter referred to as the “coordination group”).

(2) If, at the time of submitting the application for marketing authorisation, the medicinal product has already been authorised in another Member State, the Institute or the Veterinary Institute shall recognise the marketing authorisation granted by the competent authority of the Reference Member State. For this purpose, the marketing authorisation holder shall apply with the competent authority of the Reference Member State either for the preparation of the assessment report for the medicinal product or, if need be, for the update of the existing assessment report. If the Reference Member State is the Czech Republic and the Institute or the Veterinary Institute acts as the competent authority of the Reference Member State, the concerned institute shall prepare or update the assessment report for the medicinal product within 90 days of receipt of the complete application asking the concerned institute to act as the authority of the Reference Member State. The assessment report for the medicinal product together with the approved summary of the product characteristics, labelling and package leaflet shall, in such a case, be sent by the Institute or the Veterinary Institute to the competent authorities of the Member States in which the application referred to in paragraph 1 has been lodged, and to the applicant.

(3) If, at the time of submitting the application referred to in paragraph 1, the medicinal product has not been authorised in any of the Member States, the applicant for marketing authorisation shall apply with the Institute or the Veterinary Institute, if the Reference Member State is the Czech Republic, for the preparation of the assessment report for the medicinal product, proposed summary of the product characteristics, proposed labelling, and proposed package leaflet. The Institute or the Veterinary Institute shall prepare proposals of the said documents within 120 days of the receipt of the complete application for marketing authorisation and shall send them to the competent authorities of the Member States, in which the application referred to in paragraph 1 has been lodged, and to the applicant in electronic form.

(4) If the Czech Republic is not the Reference Member State, the Institute or the Veterinary Institute shall, within 90 days of receipt of the assessment report for the medicinal product, the summary of the product characteristics, labelling, and package leaflet referred to in paragraphs 2 and 3, provide to the competent authority of the Reference Member State its electronic approval of these documents. If the Czech Republic is the Reference Member State,



the Institute or the Veterinary Institute shall record the approvals of all competent authorities of the Member States, in which the application has been lodged, conclude the procedure and inform the applicant to this effect. If an application referred to in paragraph 1 has been submitted thereto, the Institute or the Veterinary Institute shall, within 30 days of achieving a consensus of the competent authorities of the Member States, issue the marketing authorisation consistent with the approved assessment report for the medicinal product, the summary of the product characteristics, labelling, and package leaflet.

(5) If the Institute or the Veterinary Institute cannot within 90 days issue its approval referred to in paragraph 4 regarding the assessment report for a medicinal product, the summary of the product characteristics, labelling, and package leaflet pursuant to paragraphs 2 and 3, if the Czech Republic is not the Reference Member State, for reasons of potential serious risk to public health where a human medicinal product is concerned, or serious risk to the health of people, animals or the environment where a veterinary medicinal product is concerned, it shall electronically communicate a detailed rationale of its position to the competent authority of the Reference Member State, to the competent authorities of the Member States where the application referred to in paragraph 1 has been submitted, and to the applicant. Issues in which opinions differ shall be forthwith presented to the coordination group. The representative of the Institute or the Veterinary Institute shall, within the scope of the coordination group, shall strive to achieve a consensus on the measures which need to be adopted to eliminate any differences of opinions. If the competent authorities of the Member States achieve a consensus within 60 days of notification of the issues where opinions differ, the Institute or the Veterinary Institute shall proceed in compliance with paragraph 4.

(6) If the competent authorities of the Member States fail to achieve a consensus within the period of 60 days, the Agency shall be forthwith informed with a view to the application of a review procedure in compliance with a Community Regulation<sup>53)</sup>. If the Czech Republic is the Reference Member State, the Institute or the Veterinary Institute shall submit the issues in which the competent authorities of the Member States have not been able to achieve consensus, and reasons for their differing opinions with a rationale to the Agency. A copy shall be given to the applicant who shall forthwith provide the Agency with a copy of the marketing authorisation dossier as per paragraph 1. Even if the consensus referred to in sentence one has not been achieved, the Institute or the Veterinary Institute may, upon request of the applicant, authorise the medicinal product prior to the completion of the review procedure, if it has approved the assessment report, the summary of the product characteristics, labelling, and package leaflet according to the competent authority of the Reference Member State.

(7) If the Veterinary Institute applies reasons pursuant to Section 34, paragraph 5 (h), the provisions of paragraphs 1 to 6 shall not be used.

<sup>53)</sup> Articles 32 to 34 of Directive No 2001/83/EC of the European Parliament and of the Council, as amended by Directive No 2004/27/EC.

Articles 36 to 38 of Directive No 2001/82/EC, of the European Parliament and of the Council, as amended by Directive No 2004/28/EC.

## **Section 42**

(1) If two or more applications for marketing authorisation of a certain medicinal product have been submitted in compliance with the Community law, and the competent authorities of the Member States have adopted decisions on the marketing authorisation of the medicinal

product or suspension or revocation thereof diverging from the decision of the Institute or the Veterinary Institute, then the Institute or the Veterinary Institute, the applicant for marketing authorisation or marketing authorisation holder may present the matter to the Committee for Human Medicinal Products or to the Committee for Veterinary Medicinal Products to apply the referral procedure. In order to support harmonisation of marketing authorisations of medicinal products authorised within the Community, and, where veterinary medicinal products are concerned, to support the rules governing the use of medicinal products in the delivery of veterinary care, the Institute or the Veterinary Institute shall, on an annual basis, submit to the coordination group a list of medicinal products for which a harmonised summary of the product characteristics should be drawn up. Following an agreement with the Agency and having regard to the opinions of the concerned persons, the Institute may submit the non-harmonised marketing authorisations of these medicinal products to the Committee for Human Medicinal Products to apply the referral procedure.

(2) The Institute or the Veterinary Institute, the applicant for marketing authorisation or the marketing authorisation holder may, in special cases regarding Community interests, present the matter to the Committee for Human Medicinal Products or to the Committee for Veterinary Medicinal Products to apply the referral procedure before the marketing authorisation is issued, suspended or revoked or before a variation to marketing authorisation is necessary in particular to reflect information collected as per Title Five of this Act. The Institute or the Veterinary Institute shall explicitly define the subject-matter presented to the concerned Committee for review and shall inform about it the applicant for marketing authorisation or the marketing authorisation holder. The Institute or the Veterinary Institute, the applicant for marketing authorisation or the marketing authorisation holder shall provide the concerned Committee with all available information relevant for the issue in question.

(3) On the basis of the decision of the Commission issued within the scope of the referral procedure, the Institute or the Veterinary Institute shall, within 30 days of notification of this decision, grant or revoke the marketing authorisation or implement variations to the marketing authorisation necessary to achieve consistency with the Commission decision referring to this decision, and shall inform the Commission and the Agency to this effect.

(4) The holder of a marketing authorisation granted by the Institute or the Veterinary Institute in compliance with the provisions of paragraphs 1 to 3 or Section 41 shall, in the event of an application for variation to marketing authorisation, submit this application also to all competent authorities of the Member States which have already authorised the medicinal product. This shall not apply where the Agency has restricted, for a group of medicinal products or a therapeutic group, the referral procedure only to certain specific parts of marketing authorisation and, at the same time, procedure referred to in Section 41 and this section has not been applied to the medicinal product.

(5) Where the Institute or the Veterinary Institute, for public health protection and, where veterinary medicinal products are concerned also for the health of animals or the protection of the environment, considers it necessary to implement a variation to marketing authorisation granted in compliance with the provisions of paragraphs 1 to 4 or Section 41 or to suspend or revoke the marketing authorisation, it shall forthwith present the matter to the Agency to apply the referral procedure.

(6) Without prejudice to the provision of paragraph 2, the Institute or the Veterinary Institute may, in exceptional cases, where it is important to adopt an urgent measure for public health

protection or for the protection of health of animals or the protection of environment, suspend the distribution, dispensing, sale by vendor of selected medicinal products or use of the concerned medicinal product in the Czech Republic until a final decision is adopted. The Institute or the Veterinary Institute shall, within the scope of their jurisdiction, inform the Commission and the competent authorities of other Member States about reasons for the measure taken thereby no later than the following working day.

(7) The provisions of paragraphs 4 to 6 shall apply to medicinal products authorised in compliance with the Community regulation<sup>54)</sup> likewise. Paragraphs 1 to 6, Section 41 paragraph 6 and the referral procedure shall not apply to homeopathic products registered pursuant to Section 28 or 29.

<sup>54)</sup> Council Directive 87/22/EEC of 22 December 1986 on the approximation of national measures relating to the placing on the market of high-technology medicinal products, particularly those derived from biotechnology

### **Section 43**

#### **Authorisation of medicinal products via Community procedure**

(1) Upon request of the Agency or other competent Community authorities the Institute or Veterinary Institute shall, in compliance with a directly applicable Community regulation<sup>24)</sup>, provide for:

a) testing of the medicinal product, its starting materials, and if need be, its intermediate products or other constituents in order to verify that the control methods employed by the manufacturer and described in the marketing authorisation application dossier are satisfactory, hence fulfilling the tasks of an official laboratory for the control of medicinal products as per a directly applicable Community regulation<sup>24)</sup>;

b) the communication of information evidencing that the manufacturer of the medicinal product or the person importing the medicinal product from a third country is able to manufacture the medicinal product concerned and, if applicable, carry out necessary control tests in compliance with a directly applicable Community regulation<sup>24)</sup>, consistently with the data and documentation submitted pursuant to a directly applicable Community regulation<sup>24)</sup>;

c) inspection of the marketing authorisation holder, manufacturer or importer from a third country, including individual manufacturing sites pursuant to a directly applicable Community regulation<sup>24)</sup>;

d) evaluation of the draft decision obtained pursuant to a directly applicable Community regulation<sup>24)</sup>, and, where observations thereon arise, they may be forwarded in a written form to the Commission within the period stipulated by a directly applicable Community regulation<sup>24)</sup>.

(2) The marketing authorisation holder shall without delay communicate to the Institute or to the Veterinary Institute information on any prohibition or restriction imposed by the competent authorities of any country where the medicinal product is placed on the market, and any other new information which might affect the evaluation of the benefits and risks of the concerned medicinal product, as stipulated by a directly applicable Community regulation<sup>24)</sup>.

(3) The Institute or the Veterinary Institute shall keep files of the medicinal products authorised pursuant to a directly applicable Community regulation<sup>24)</sup>, publish them and forthwith assign them with a code pursuant to Section 32, paragraph 5, which shall be notified to the holder of the concerned marketing authorisation and published in the information media

of the respective institute. The distribution of the medicinal product may not commence prior to the assignment of the code.

(4) The authorities of the Czech Republic acting pursuant to a directly applicable Community regulation<sup>24)</sup>, including the act of suspending the use of medicinal products, shall be the Institute and the Veterinary Institute.

(5) The Institute or the Veterinary Institute shall ensure that all suspected serious adverse reactions to medicinal products authorised pursuant to a directly applicable Community regulation<sup>24)</sup>, occurring within the territory of the Czech Republic and brought to its attention are recorded and reported to the Agency and to the marketing authorisation holder of the concerned medicinal product in compliance with a directly applicable Community regulation<sup>24)</sup> no later than 15 days following the receipt of the information.

(6) The Institute or the Veterinary Institute shall cooperate in the preparation of guidelines and shall be involved in the establishment and operation of an information network for rapid transfer of information among the competent authorities of the Community pursuant to a directly applicable Community regulation<sup>24)</sup>; it shall evaluate the information received and shall ensure the adoption of adequate measures in the Czech Republic.

## **Section 44**

### **Adoption of marketing authorisation from another Member State**

(1) The adoption of a marketing authorisation from another Member State (hereinafter referred to as the “adoption of marketing authorisation”) shall mean the recognition of validity of the marketing authorisation of a human medicinal product granted in another Member State by decision of the Institute; the legal consequences of the adopted marketing authorisation are identical to those of a marketing authorisation referred to in Section 32, unless hereafter stipulated otherwise.

(2) The adoption of marketing authorisation shall be possible only in emergencies, where no human medicinal product for the effective treatment of patients, including prophylaxis and diagnostics, is authorised in the Czech Republic or pursuant to a directly applicable Community regulation<sup>24)</sup> and where an application for its marketing authorisation has not been submitted in the Czech Republic, either, and the adoption of the marketing authorisation is justified by public health protection, where:

- a) an adoption of marketing authorisation of a medicinal product authorised in a Member State in compliance with Community legislation is concerned;
- b) the medicinal product is intended only for dispensing on medical prescription in the Czech Republic;
- c) the labelling of the medicinal product and the package leaflet are in the Czech language, unless stipulated otherwise in compliance with Section 38.

(3) The decision about an adoption of marketing authorisation shall be taken by the Institute on the basis of an application. The applicant for adoption of marketing authorisation may be a natural or legal person other than the marketing authorisation holder for the medicinal product concerned in a Member State and other than a person maintaining business relations therewith. The application must contain data about the applicant as well as data specifying the subject-matter of the application and a rationale thereof. The implementing legal regulation stipulates the scope of these data and relevant documentation.

(4) The Institute shall decide about the application on the basis of an opinion of the Ministry of Health on the necessity of the medicinal product in question with a view to public health protection no later than within 60 days of receipt of the application. Where the Institute requests the applicant for adoption of marketing authorisation to provide additional information or other source materials, the procedure shall be suspended. The Institute shall request the authority of the concerned Member State to provide a copy of the assessment report for the concerned medicinal product and a valid marketing authorisation of the concerned medicinal product which is to be adopted, and shall request an opinion from the Ministry of Health; the Ministry shall issue this opinion within the period of 30 days. If the procedure is suspended for more than 180 days, the Institute shall stop the procedure. The Institute shall decline the application if it is identified in the course of the procedure that:

- a) according to the opinion of the Ministry of Health the medicinal product is not necessary in respect of public health protection;
- b) the conditions stipulated in paragraph 2 are not met; or
- c) the applicant for adoption of marketing authorisation has failed to provide adequate evidence of his or her ability to fulfil the conditions referred to in paragraph 9.

(5) Prior to its decision on the adoption of marketing authorisation the Institute shall notify the marketing authorisation holder in the Member State where the concerned medicinal product is authorised of its intention to adopt the marketing authorisation of the concerned medicinal product.

(6) The adoption of marketing authorisation of a medicinal product as well as the expiry of the decision on the adoption of marketing authorisation shall be notified by the Institute to the Commission, giving the business name and registered office of the adopted marketing authorisation holder where a legal person is concerned, or the name(s), surname, and place of business of the adopted marketing authorisation holder where a natural person is concerned. The information about adoption of marketing authorisation shall be published by the Institute in its information media. The Institute shall assign each medicinal product whose marketing authorisation has been adopted with a code referred to in Section 32, paragraph 5. For the medicinal product with adopted marketing authorisation, the summary of the product characteristics of the product whose marketing authorisation has been adopted shall be used; the summary of the product characteristics does not have to contain data protected in the Czech Republic pursuant to special legal regulations<sup>55</sup>).

(7) The decision on the adoption of marketing authorisation may contain the imposition of conditions governing the supplies of the medicinal product.

(8) The decision on the adoption of marketing authorisation shall be effective for five years of its coming legally into force and it may be repeatedly renewed for the same period of time if applied for. The decision on the adoption of marketing authorisation shall be subject to annual reviews to examine whether the conditions under which it has been issued remain valid. Where the conditions governing the adoption of the marketing authorisation are no longer valid, the Institute shall revoke the decision on the adoption of marketing authorisation. The Institute shall amend, suspend or revoke its decision on adoption of marketing authorisation for reasons stipulated by Section 34, paragraph 5 or 6 likewise.

(9) The holder of an adopted marketing authorisation shall be obliged to:

- a) keep records of the origin, number of packs, and batch numbers of the imported medicinal product for the minimum period of five years;
- b) ensure that the dispensing or marketing of the imported medicinal product is suspended within the same scope as in the concerned Member State, if the dispensing or marketing has been suspended due to a quality defect or reduced safety or efficacy of the medicinal product or if marketing authorisation in the Member State has been revoked due to reduced efficacy or safety;
- c) achieve, by means of an application for variation to marketing authorisation, a variation to marketing authorisation of the concerned medicinal product in the Czech Republic so that this marketing authorisation is consistent with the conditions of marketing authorisation in the concerned Member State, where such variations pertain to the product efficacy and safety;
- d) use, for re-packaging, re-labelling and any other adjustment of the imported medicinal product, only the services of manufacturers of medicinal products and notify any changes as may be applicable in advance to the Institute;
- e) unless he or she is a holder of distribution authorisation for medicinal products, ensure the distribution of the medicinal product from another Member State via a person who is a holder of such authorisation;
- f) label a re-packed medicinal product; the implementing legal regulation stipulates the method of such labelling;
- g) cooperate with the Institute in compliance with Section 33, paragraph 3 (d) and (e) likewise;
- h) notify the marketing authorisation holder of this medicinal product in the concerned Member State of the commencement of distribution of the medicinal product from another Member State and to provide, upon request of the marketing authorisation holder, a sample of this medicinal product in the form marketed in the Czech Republic thereto;
- i) ensure pharmacovigilance, particularly by means of collection of data about adverse reactions, and notify the marketing authorisation holder in the concerned Member State and the Institute of the recorded adverse reactions.

(10) The issue of the decision on adoption of marketing authorisation shall be without prejudice to the liability of the manufacturer of the medicinal product and the marketing authorisation holder of the concerned medicinal product for damages caused by this medicinal product.

<sup>55)</sup> For example, the Commercial Code; Act No 527/1990 Coll., on Inventions, Industrial Designs and Rationalisation Proposals, as amended; Act No 441/2003 Coll., on Trademarks and Amendment to Act No 6/2002 Coll., on Courts of Justice, Judges, Lay Judges and Judicial State Administration and on Amendments to Some Other Acts (Act on Courts of Justice and Judges), as amended, (Act on Trademarks), as amended.

## **Section 45**

### **Parallel import of medicinal products**

(1) Parallel import shall mean a distribution of a medicinal product from another Member State to the Czech Republic, if the medicinal product has been granted marketing authorisation both in the Czech Republic and in the Member State, and the distribution is not organised by the marketing authorisation holder of the medicinal product in the Czech Republic nor in co-operation therewith. Parallel import of a medicinal product may be conducted only on the basis of parallel import authorisation for the medicinal product. Parallel import shall not mean distribution from another Member State to the Czech Republic where medicinal products authorised pursuant to Section 25, paragraph 1 (b) are concerned.

(2) Parallel import shall only be permissible for holders of distribution authorisations for medicinal products, if:

- a) the parallel imported medicinal product is duly authorised in a Member State and this authorisation has not been revoked due to public health protection;
- b) the parallel imported medicinal product will be distributed in the Czech Republic with contents of active substances identical in quantity and quality and in identical pharmaceutical form as the medicinal product authorised in the Czech Republic (hereinafter referred to as the “reference product for parallel import”), and this authorisation has not been revoked for public health protection reasons; and
- c) the parallel imported medicinal product has identical therapeutic effects as the reference product for parallel import, it does not present a risk for public health and it is used in accordance with the terms of the marketing authorisation of the reference product for parallel import.

(3) In the case of compliance with the requirements laid down by this Act, the Institute or the Veterinary Institute shall issue parallel import authorisation on the basis of an application. The application shall contain:

- a) identification data regarding the reference product for parallel import and the medicinal product authorised in a Member State, which is to be the subject of parallel import, and relevant marketing authorisation holders;
- b) package leaflet and a sample of the medicinal product in a form marketed in the Member State;
- c) sample of the medicinal product in a form to be marketed in the Czech Republic, including proposed package leaflet in the Czech language;
- d) a list of manufacturers involved in re-packaging, re-labelling or other manufacturing operations conducted with the parallel imported medicinal product; relevant manufacturing authorisations or certificates of compliance with good manufacturing practice shall be provided;
- e) any potential difference between the reference product for parallel import and the parallel imported medicinal product, if known to the applicant;

(4) The Institute or the Veterinary Institute shall decide upon an application for authorisation of parallel import of a medicinal product within 45 days of its delivery at the latest. If the Institute or the Veterinary Institute requests the applicant to provide additional information, the procedure shall be suspended until the delivery of the requested information. If the suspension exceeds 180 days, the Institute or the Veterinary Institute may terminate the procedure concerning the application. Where the source materials are not sufficient for the assessment of identical therapeutic effects, the Institute or the Veterinary Institute shall request source materials on the terms of marketing authorisation of the parallel imported medicinal product from the competent authorities abroad. Where such request for source materials is concerned, the period of 45 days shall be extended to 90 days. The 90-day period established for the settling of the application for parallel import of a medicinal product shall be suspended for the period from the request for source materials addressed to the competent authorities abroad until their delivery to the concerned Institute.

(5) The Institute shall assign a code referred to in Section 32, paragraph 5 to each medicinal product whose parallel import has been authorised.

(6) For the purposes of assessing the application for authorisation of parallel import of a medicinal product and, after the issue of the authorisation of parallel import, for the purposes of monitoring the properties of parallelly imported medicinal product, the marketing authorisation holder of the reference product for parallel import shall provide, upon request from the concerned institute, information concerning the terms of the marketing authorisation in the Member States, differences between the marketing authorisation of the reference product for parallel import in the Czech Republic and in the Member States, including data about manufacturing sites.

(7) The holder of the authorisation of parallel import of a medicinal product shall be obliged to:

- a) proceed in compliance with Section 44, paragraph 9 (a) to (d) likewise;
- b) label the re-packed medicinal product; the implementing legal regulation stipulates the method of this labelling;
- c) cooperate with the Institute or the Veterinary Institute in compliance with Section 33, paragraph 3 (d) and (e) likewise;
- d) notify the holder of the marketing authorisation of the reference product for parallel import in the Czech Republic of the intention to commence the parallel import of the medicinal product and upon request thereof provide the marketing authorisation holder with a sample of the parallel imported medicinal product in the form marketed in the Czech Republic;
- e) ensure pharmacovigilance primarily by means of collection of data on adverse reactions and notify the marketing authorisation holder and the Institute or the Veterinary Institute of any recorded adverse reactions.

(8) The validity of an issued authorisation of parallel import of a medicinal product shall be five years and it may be renewed for another five years upon request; such renewals may be recurring. Paragraph 4 shall likewise apply to the procedure regarding the renewal of the authorisation of parallel import. In the event of suspension or revocation of the marketing authorisation of medicinal product for parallel import in the Czech Republic or of the parallelly imported medicinal product in the Member State, the Institute or the Veterinary Institute shall examine whether the suspension or revocation of marketing authorisation has been effected due to identifying an adverse risk-benefit ratio of the medicinal product.

(9) The Institute or the Veterinary Institute shall suspend or revoke the authorisation of parallel import if the validity of the authorisation of parallel import of the medicinal product presents a risk to public health or where the holder of the authorisation of parallel import of a medicinal product fails to comply with the terms of the authorisation or where the holder seriously breaches the obligations stipulated by this Act. The Institute or the Veterinary Institute shall suspend the authorisation of parallel import if the information obtained is incomplete or shortcomings which may be eliminated are identified. The Institute or the Veterinary Institute shall revoke the authorisation of parallel import if the information obtained is complete or shortcomings which may not be eliminated are identified. The Institute or the Veterinary Institute shall revoke the authorisation of parallel import of a medicinal product upon request of the person for whom it has been issued.

(10) The authorisation and conduct of the parallel import of a medicinal product shall be without prejudice to the liability of the marketing authorisation holder of the reference medicinal product for parallel import.

## **Section 46**



## **Exceptions from the marketing authorisation allowed by the State Veterinary Administration**

(1) Having received an application from an attending veterinarian, the State Veterinary Administration may, in exceptional cases, authorise the use of a medicinal product not authorised in compliance with this Act, in the case of:

a) an immunological veterinary medicinal product

1. in the case of occurrence of a serious animal infection or infection transmissible from animals to people, or

2. in the case where an animal is imported from a third country or exported to a third country and is subject to special binding veterinary rules; in such a case the State Veterinary Administration may authorise the use of the immunological veterinary medicinal product authorised in the concerned third country in compliance with the applicable legal regulations of the concerned third country;

b) a product other than immunological veterinary medicinal products, the use of which is necessary with regard to alleviating the suffering of the animal to whom it is to be administered and for whom no other medicinal product pursuant to Section 9, paragraph 1 may be used.

(2) Where protective or control measures are implemented in the event of occurrence of an animal infection or an infection transmissible from animals to people, the State Veterinary Administration may authorise the use of a veterinary medicinal product in compliance with paragraph 1 (a), item 1 on its own initiative.

(3) Prior to the issue of authorisation of an exception referred to in paragraph 1 or 2, the State Veterinary Administration may request an opinion from the Veterinary Institute. In its authorisation of an exception, the State Veterinary Administration shall always stipulate:

a) the amount of the medicinal product to be imported;

b) the person who is to import the medicinal product;

c) the method of placing the medicinal product onto the market;

d) the schedule for the import of the medicinal product and, where applicable, its use;

e) the method of use of the medicinal product, where necessary with regard to the nature of the medicinal product.

(4) The following data shall be published about an authorisation of an exception from marketing authorisation referred to in paragraph 1 or 2:

a) name of the medicinal product;

b) the active substance, or where applicable, substances contained in the medicinal product;

c) animal species and therapeutic or preventive indications for which the use of the product has been authorised;

d) restrictions applicable to the marketing of the medicinal product if imposed; and

e) a schedule for the import of the medicinal product and, where applicable, its use.

(5) Where the exception referred to in paragraphs 1 and 2 has been authorised, the liability for damages shall be with the person upon whose request the exception has been granted. The liability of the manufacturer or importer for damages caused by product defects pursuant to a legal regulation<sup>12)</sup> shall not be prejudiced.

(6) Where an authorisation of an exception issued for an immunological veterinary medicinal product referred to in paragraph 1 (a), item 1 is concerned, the State Veterinary Administration shall inform the Commission before the issuance of the exception.

#### **Section 47**

##### **Exceptions from marketing authorisation decided by the Commission**

(1) Where the Commission in compliance with the Community rules governing some serious animal infections<sup>15)</sup> decides about the use of an immunological veterinary medicinal product, the State Veterinary Administration shall establish the terms of use and marketing of such product within the scope stipulated by Section 46, paragraph 3 and with a view to the conditions in the Czech Republic, unless the Commission has established such terms itself.

(2) The following data shall be published about exceptions from marketing authorisation:

- a) name of the medicinal product;
- b) the active substance or, where applicable, substances contained in the medicinal product;
- c) the animal species and therapeutic or preventive indications for which the use of the product has been authorised;
- d) restrictions applicable to the marketing of the medicinal product if imposed; and
- e) a schedule for the import of the medicinal product and, where applicable, its use.

#### **Section 48**

##### **Exceptions from marketing authorisation for products authorised in another Member State**

(1) Veterinary medicinal products authorised in another Member State may be transported from the concerned Member State for the purposes of use in a single animal or in a small number of animals of a single breeder.

(2) Veterinary medicinal products may be imported to the Czech Republic by the attending veterinarian or by persons authorised to distribute veterinary medicinal products on the basis of an order of the attending veterinarian, unless the Veterinary Institute has rejected such import pursuant to paragraph 5. The order must contain data about the applicant as well as data about the veterinary medicinal product and a rationale of the order. Specimen order shall be stipulated by the implementing legal regulation.

(3) A veterinarian who intends to import a veterinary medicinal product referred to in paragraph 1 to the Czech Republic, shall be obliged to apply for the import in advance with the Veterinary Institute. The application must contain data about the applicant as well as data about the veterinary medicinal product, data about the method of marketing of the product, data about the quantity of the product, about the method of use, about the time for which the product is to be marketed, and a rationale of the application. The implementing legal regulation stipulates the scope of data to be contained in the application. The Veterinary Institute shall assess the application, and unless it decides about a rejection of the application referred to in paragraph 5 within the period 15 working days of the receipt of the application, this period being satisfied if the written notice of the Veterinary Institute has been provably sent on the last day of this period, either by postal services or electronically, the application shall be regarded approved. The Veterinary Institute may decide about a potential restriction regarding the use of the veterinary medicinal product or its marketing.

(4) Where the health or life of an animal is directly jeopardised, the veterinary medicinal product referred to in paragraph 1 may be imported under the conditions stipulated by paragraph 2 also without the approval obtained from the Veterinary Institute in advance. In this case, the application shall be lodged retrospectively within five working days of the conduct of such import. The Veterinary Institute shall assess the submitted application and shall decide about it in compliance with paragraph 3. If the Veterinary Institute rejects the application pursuant to paragraph 5, the concerned veterinarian shall be obliged to forthwith terminate the use of the veterinary medicinal product and to ensure its removal<sup>56)</sup>. The costs of removal of such product shall be borne by the concerned veterinarian, who shall be furthermore obliged to keep detailed and legible records of the removal which shall be stored for the minimum period of five years.

(5) The Veterinary Institute shall decline the application referred to in paragraph 3 or 4, if:

- a) the veterinary medicinal product which is to be the subject of the import is not effectively authorised in another Member State;
- b) another suitable authorised medicinal product is available for the concerned indication in the Czech Republic;
- c) the veterinarian has failed to provide data stipulated by paragraph 3; or
- d) the veterinary medicinal product is subject to restrictive safety measures in any of the Member States due to an identified risk associated with the use of the concerned medicinal product.

(6) The attending veterinarian who imports veterinary medicinal products referred to in paragraph 2, shall be obliged to keep records of the import and to store them for the period of five years of the conduct of the import. A distributor shall keep records of an import referred to in paragraph 2 in compliance with the requirements governing the distribution of veterinary medicinal products. The implementing legal regulation stipulates the scope of data about the import.

<sup>56)</sup> Act No 185/2001 Coll., as amended.

## **Section 49**

### **Specific therapeutic programmes applying non-authorised human medicinal products**

(1) Where in the cases specified in a directly applicable Community regulation<sup>57)</sup> or in other emergencies a human medicinal product authorised pursuant to this Act or pursuant to a directly applicable Community regulation<sup>24)</sup> is not available for the effective treatment of patients, prophylaxis and prevention of infectious diseases or for diagnostic purposes, the use, distribution, and dispensing of human medicinal products not authorised pursuant to this Act or pursuant to a directly applicable Community regulation<sup>24)</sup> may be permissible for the treatment, prevention or diagnosing of rare diseases or in other emergencies within the scope of specific therapeutic programmes (hereinafter referred to as “therapeutic programmes”).

A therapeutic programme may be proposed, if:

- a) the subject of the therapeutic programme is the treatment, prophylaxis and prevention or diagnosing of conditions which present a serious threat to human health;
- b) the use of the non-authorised medicinal product is in compliance with a therapeutic programme designed in advance, which defines, in particular:
  1. the medicinal product to be used,
  2. the manufacturer of the medicinal product, or, where applicable, the distributor or the person importing the medicinal product from third countries,

3. the group of patients for whom the medicinal product is intended and method of use of the medicinal product,
4. the method of quality, safety, and efficacy monitoring and evaluations of the medicinal product and of the therapeutic benefit of its use,
5. the sites where the therapeutic programme is conducted,
6. the rationale of the therapeutic programme.

(2) The proposed therapeutic programme shall be submitted by a legal or natural person (hereinafter referred to as the “submitter of the therapeutic programme”) to the Ministry of Health for approval and to the Institute for opinion. In its opinion the Institute shall provide its position in particular on the conditions of use of the concerned medicinal product, method of its distribution, dispensing, and the monitoring and evaluating of its quality, safety, and efficacy. Where the therapeutic programme includes a medicinal product falling within the categories stipulated by a directly applicable Community regulation<sup>58)</sup>, the Institute shall, in the issue of its opinion, take into account the opinion of the Agency, if issued.

(3) A therapeutic programme may be conducted and the non-authorised medicinal product used, distributed and dispensed by ways described in the programme, only if the Ministry of Health has issued a written approval with the conduct of the programme. The Ministry shall issue such approval having regard to the opinion of the Institute, and, where applicable, to the opinion of the Agency, if issued. The approval of the Ministry of Health may be conditioned by the imposition of obligations upon the submitter of the therapeutic programme, including the obligation to submit programme progress reports to the Ministry of Health or, where applicable, to the Institute, and it shall stipulate the conditions of use of the concerned medicinal product, method of its distribution, dispensing and monitoring and evaluation of its quality, safety, and efficacy. Where a non-authorised medicinal product containing a genetically modified organism is concerned<sup>11)</sup>, such product may be used, distributed, and dispensed within a therapeutic programme only in compliance with the provisions of a legal regulation<sup>11)</sup>.

(4) If the therapeutic programme is approved, the submitter of the therapeutic programme shall be responsible for the conduct thereof and for ensuring co-operation with authorities referred to in paragraph 2. In the case of non-compliance with the conditions under which the approval has been granted or where new facts about an adverse risk-benefit ratio of the medicinal product associated with the therapeutic programme arise, the Ministry of Health may revoke its approval of the conduct of the therapeutic programme. The Institute may suspend the use of the medicinal product if new facts about an adverse risk-benefit ratio of this medicinal product or about a serious breach of the conditions governing the use of the medicinal product, its distribution or dispensing established by the therapeutic programme arise.

(5) Information about therapeutic programmes shall be communicated by the Institute in the cases stipulated by a directly applicable Community regulation<sup>57)</sup> to the Agency. The implementing legal regulation stipulates the method of submission of therapeutic programmes, the content of their proposals and information to be submitted, the issuance of opinions and approvals thereof and the scope of information to be submitted to the Institute in the course of conduct of the therapeutic programme and the scope of data to be published.

<sup>57)</sup> Article 83 of Regulation (EC) No 726/2004 of the European Parliament and of the Council.

<sup>58)</sup> Article 83, paragraphs 1 and 2 of Regulation (EC) No 726/2004 of the European Parliament and of the Council.

## **Section 50**

### **Orphan medicinal products**

Where a medicinal product included in the register of orphan medicinal products fails to meet the criteria established by the directly applicable Community regulation<sup>42)</sup>, the Institute shall inform the Agency to that end within five years of the marketing authorisation of the medicinal product in the Communities.

## **Section 51**

### **Clinical trials on human medicinal products**

(1) Clinical trials on human medicinal products involving natural persons as trial subjects shall be governed by the rules of good clinical practice, which is a set of internationally recognised ethical and scientific quality requirements which must be observed in designing, conducting, recording, and reporting clinical trials on human medicinal products. These rules shall be also applicable to multi-centric clinical trials, not, however, to non-intervention studies, which are trials using medicinal products in a common manner and in compliance with the terms of their marketing authorisation. The rights, safety, and quality of life of a trial subject shall always take precedence over the interests of science and of the society. Clinical trials on human medicinal products must be conducted in compliance with the ethical principles stipulated by the Community regulations<sup>59)</sup>.

(2) For the purposes of clinical trials on human medicinal products:

a) A clinical trial shall mean any systematic testing conducted on trial subjects intended to:

1. discover or verify the clinical, pharmacological or other pharmacodynamic effects,
2. identify any adverse reactions,
3. study absorption, distribution, metabolism or excretion of one or more investigational medicinal product(s) with the objective of ascertaining its (their) safety or efficacy, including clinical trials conducted at one or more trial sites in the Czech Republic or in the Member States, where applicable;

b) a multi-centric clinical trial shall mean a trial conducted according to a single protocol, but at more than one clinical trial site (hereinafter referred to as “trial site”), and therefore by more than one investigator, in which the trial sites may be located in the Czech Republic, in other Member States and in third countries, if applicable;

c) an investigational medicinal product shall mean a pharmaceutical form of an active substance or product obtained through technological processing of mere excipients (a placebo) which are being tested or used for comparison in a clinical trial; an investigational medicinal product may also be a product already with a marketing authorisation but used or assembled (including changes to composition of the pharmaceutical form or packaging) in a way different from the authorised form of the medicinal product or when used out of the authorised indication(s) or for the purposes to gain further information about the authorised presentation of the medicinal product;

d) a sponsor shall mean a natural or legal person, who takes the responsibility for the commencement, management and/or financing of a clinical trial; it may only be a person permanently residing or established<sup>21)</sup> within the territory of the Czech Republic or any of the Member States, or a person who has appointed its authorised representative complying with this condition, where applicable;

e) an investigator's brochure shall mean a compilation of the clinical and non-clinical data on the investigational medicinal product or products which are relevant to the clinical trial conducted in trial subjects;

f) a protocol shall mean a document that describes the objective, design, methodology, statistical considerations, and organisation of the clinical trial, including its successive versions and amendments, as may be applicable;

g) a trial subject shall mean a natural person who participates in a clinical trial, either as a recipient of the investigational medicinal product or a member of a reference or control group to whom the investigational medicinal product is not being administered;

h) an informed consent shall mean an expression of willingness to take part in a clinical trial which shall be

1. written,

2. dated and signed by the trial subject in his/her own hand,

3. taken freely after being duly informed of the nature, significance, implications, and risks of the clinical trial,

4. appropriately documented,

5. granted by a person capable of giving the informed consent or where the person is not capable of giving the informed consent by his or her guardian; if the person concerned is unable to write, oral consent in the presence of at least one witness may be given and a written record thereof taken;

The text of the informed consent must be clear and provided in a language which the trial subject well understands; the scope of information to be contained in the informed consent and the method of its granting shall be stipulated by the implementing legal regulation.

<sup>59)</sup> [Article 3 of Commission Directive 2005/28/EC](#).

## **Section 52**

### **Protection of trial subjects**

(1) This Act shall apply without prejudice to the legal regulations governing the protection of trial subjects<sup>60)</sup>.

(2) An investigator shall mean a medical doctor responsible for the conduct of a clinical trial at the relevant trial site; if the clinical trial is conducted by a team of individuals at a single trial site, the investigator leading this team shall be called the principal investigator. The investigator shall be obliged to ensure that the clinical trial is not conducted in:

a) persons:

1. fully or partially legally incapacitated,

2. whose informed consent cannot be obtained due to their medical condition,

3. who are not citizens of the Czech Republic, or

4. under 18 years of age;

b) pregnant or breast-feeding women;

c) dependants meaning:

1. persons in custody or serving a sentence of imprisonment, or

2. persons receiving health care without their consent;

the conduct of a clinical trial in these persons being permissible only if expected to provide preventive or therapeutic benefits for these persons.

(3) A clinical trial may be undertaken only if:

a) the foreseeable risks and inconveniences for trial subjects have been weighted against the anticipated benefits for the trial subjects and other potential patients; a clinical trial may be

initiated only if the ethics committee and the Institute come to the conclusion that the anticipated therapeutic and health benefits justify the risks and may be continued only if compliance with this requirement is permanently monitored;

b) the trial subject or, when the person is not able to give the informed consent, his or her guardian has had, with the exception of the provisions set forth by paragraph 7, the opportunity in a preceding interview with the investigator or a person authorised by the investigator to understand the objectives, risks, and inconveniences of the clinical trial and the conditions under which the clinical trial is to be conducted, and has also been informed of his or her right to withdraw from the clinical trial at any time;

c) the rights of the trial subject to physical and mental integrity, to privacy, and to the protection of data concerning him or her in compliance with special legal regulations<sup>60)</sup> are safeguarded;

d) the trial subject or, when the subject is not able to give the informed consent, his or her guardian has given his or her written consent after being informed of the nature, significance, implications, and risks of the clinical trial; if the trial subject is unable to write, oral consent in the presence of at least one witness may be given in exceptional cases and a written record thereof taken;

e) the trial subject may without any resulting detriment withdraw from the clinical trial at any time by revoking his or her informed consent;

f) a liability insurance covering the investigator and the sponsor has been concluded prior to the commencement of the clinical trial, which shall cover also the damages in the event of the death of the trial subject or in the event of an injury to the health of the trial subject arising due to the conduct of the clinical trial; the sponsor shall be responsible for concluding such insurance.

(4) Medical care given to and medical decisions taken in respect of the trial subjects must be the responsibility of an appropriately qualified medical doctor.

(5) The trial subject shall be provided by the investigator or the sponsor with a contact person from whom he or she may obtain further information. Should new information relevant to the trial subject's consent to participate in the clinical trial arise, the trial subject must be forthwith informed thereof by the investigator.

(6) A clinical trial on minors may be undertaken only if:

a) the informed consent of the parents or another legal representative, where applicable, has been obtained<sup>61)</sup>; the consent must represent the minor's presumed will to participate in the clinical trial, if possible with respect to its age and/or intellectual capacity; it may be revoked at any time without detriment to the minor;

b) the minor has received information regarding the clinical trial, its risks and benefits according to his or her capacity of understanding from the investigator or a person authorised thereby who has experience in working with minors;

c) the explicit wish of a minor who is capable of forming an opinion and assessing the information contained under letter (b) to refuse participation or to be withdrawn from the clinical trial at any time is respected by the investigator or, where appropriate, by the principal investigator;

d) no incentives or financial inducements are given except for compensation;

e) a direct benefit for a group of patients is obtained from the relevant clinical trial and only if such research is essential to validate data obtained in clinical trials on persons able to give informed consent or data obtained via other research methods; such research should either

relate directly to the clinical condition from which the minor suffers or be of such a nature that it can only be carried out on minors;

f) the clinical trial follows corresponding guidelines of the Commission and of the Agency;

g) the clinical trial has been designed to minimise pain, discomfort, fear, and any other foreseeable risks in relation to the disease and developmental stage of the trial subject; both the risk threshold and the degree of distress have to be defined by the protocol and constantly monitored;

h) the ethics committee with paediatric expertise or after taking qualified advice in clinical, ethical, and psychosocial problems in the field of paediatrics has endorsed the protocol.

A detailed specification of the conditions governing the conduct and assessment of clinical trials on minors as per letters (a) to (h) shall be stipulated by the implementing legal regulation.

(7) Provisions contained in paragraphs 2 to 5 shall be adequately applicable also to adults legally incapable of giving an informed consent with the clinical trial. Participation of incapacitated adults in a clinical trial shall be allowed if:

a) the informed consent of the guardian thereof has been obtained; the consent must represent the trial subject's presumed will to participate in the clinical trial and may be revoked at any time without detriment to the trial subject;

b) the person not able to give informed consent has received information according to his or her capacity of understanding regarding the clinical trial, its risks and benefits;

c) the explicit wish of a trial subject who is capable of forming an opinion and assessing the provided information to refuse participation or to be withdrawn from the clinical trial at any time is respected by the investigator or, where applicable, the principal investigator;

d) no incentives or financial inducements are given except for compensation;

e) such research is essential to validate data obtained in clinical trials on persons able to give informed consent or data obtained via other research methods and relates directly to a life-threatening or debilitating clinical condition from which the trial subject suffers;

f) the clinical trial has been designed to minimise pain, discomfort, fear, and any other foreseeable risks in relation to the disease and developmental stage of the trial subject; both the risk threshold and the degree of distress have to be defined by the protocol and constantly monitored;

g) the ethics committee with expertise in the relevant disease and the patient population concerned or after taking advice in clinical, ethical, and psychosocial questions in the field of the relevant disease and patient population concerned has endorsed the protocol.

(8) A clinical trial on adults legally incapable to give an informed consent may not, however, be conducted or continued if it is proven that these persons have expressed their disagreement or refused to give consent with the conduct of the clinical trial prior to being incapacitated.

(9) In acute cases when it is impossible to obtain the trial subject's informed consent prior to the inclusion in the clinical trial, the consent shall be requested from the subject's guardian in compliance with paragraph 3, letter (b). Where such guardian has not been assigned or is unavailable, the trial subject may only be included in the clinical trial if the inclusion procedure is specified in the protocol and the investigator has obtained a written favourable opinion from the trial's ethics committee which contains an explicit position on the procedure of including trial subjects. The opinion of the ethics committee may include a condition according to which the inclusion of each single trial subject must be approved by the ethics committee. The investigator shall obtain the consent of the trial subject or, where applicable, his or her guardian, with the trial subject's continued participation in the clinical trial as soon



as practicable with respect to the condition of the trial subject or the availability of the guardian.

<sup>60)</sup> E.g. Act No 101/2000 Coll., as amended, the Civil Code, and the Criminal Act.

<sup>61)</sup> Section 34 of Act No 94/1963 Coll., on family, as amended.

## **Section 53**

### **Ethics committee**

(1) An ethics committee shall mean an independent body consisting of healthcare professionals and non-medical members whose obligation is to protect the rights, safety, and health of trial subjects and to provide assurance of that protection by, among other things, expressing an opinion on the clinical trial protocol, the suitability of investigators and adequacy of facilities, and on the methods and documents to be used to inform trial subjects and obtain their informed consent. An ethics committee may be established by a healthcare facility. An ethics committee may, on grounds of a written agreement concluded with a healthcare facility other than the establishing one, act also as an ethics committee for this healthcare facility. An ethics committee may also be established by the Ministry of Health, in case of which the members of the ethics committee shall be appointed by the Minister of Health. Conditions necessary for the operation of the ethics committee shall be secured by the establishing entity. This entity shall, furthermore, be responsible for the publication of the rules of procedure and operating procedures of the ethics committee and the list of its members, and, moreover, the amount of costs where the ethics committee requires compensation of costs incurred with respect to the issue of an opinion. The ethics committee is not an administrative body and the Administrative Code shall not be applicable to the issuance of opinions and to the procedures of the ethics committee. The rules governing the establishment, membership, operation, operational arrangements, information to be published, and dissolution of the ethics committee shall be stipulated by the implementing legal regulation.

(2) An ethics committee established pursuant to this Act may issue its opinions also for other areas of biomedical research than that of clinical trials on medicinal products, unless the provisions of other special legal regulations<sup>62)</sup> are prejudiced thereby. At least one member of the ethics committee must be a person without healthcare and specialised scientific qualification and at least one member of the ethics committee must be a person without any employment, labour or dependent relationship with the healthcare facility in which the proposed clinical trial is to be conducted. An ethics committee may constitute only of persons who provide their written consent with:

- a) their membership in the ethics committee, and who shall refrain from giving their opinion on the applications for approvals of such clinical trials in the conduct of which they are personally interested, and from carrying out expert supervisory activities over such clinical trials, and who shall forthwith notify the ethics committee of any arising personal interest in the assessed clinical trial;
- b) publishing their membership in the ethics committee and other facts implied by the activities and membership therein as stipulated by this Act;
- c) keeping the information and facts that they learn in relation to their membership in the ethics committee confidential.

(3) An ethics committee as per by paragraphs 1 and 2 may be, on the basis of its application, appointed by the Ministry of Health as an ethics committee issuing opinions on multi-centric

clinical trials (hereinafter referred to as an “ethics committee for multi-centric trials”). This decision shall be issued by the Ministry of Health with regard to the opinion of the Institute.

(4) The Institute shall be forthwith notified of the establishment of an ethics committee and the appointment of an ethics committee for multi-centric trials, as well as the dissolution of an ethics committee and changes to the contact details of the ethics committee. This information shall be provided by the entity which has established or appointed the relevant committee. Information on the dissolution of an ethics committee shall be provided by the entity which has established or appointed the relevant committee also to all sponsors of clinical trials the conduct of which has been supervised by the relevant ethics committee.

(5) In order to obtain an opinion, an ethics committee may invite other experts to whom the provisions of this Act regarding confidentiality of information and facts disclosed to them in relation to their activities carried out for the ethics committee apply.

(6) Upon request of the sponsor, the ethics committee shall give its opinion on the relevant clinical trial prior to its commencement. The sponsor shall be obliged to compensate the costs reasonably incurred for the expert activities conducted in association with the issue of such an opinion.

(7) In preparing its opinion, the ethics committee shall consider:

- a) the relevance of the clinical trial and the trial design;
- b) whether the evaluation of the anticipated benefits and risks as per Section 52, paragraph 3 (a) is satisfactory and whether the conclusions are justified;
- c) the protocol;
- d) the suitability of the investigator and supporting staff;
- e) the investigator's brochure;
- f) the adequacy of the healthcare facility;
- g) the adequacy and completeness of the written information for trial subjects and the procedure to be followed for the purpose of obtaining informed consent and the justification for the research of persons incapable of giving informed consent as regards the specific restrictions laid down in Section 52, paragraphs 2 to 5;
- h) provision for compensation or indemnity in the event of death or injury attributable to the clinical trial;
- i) any insurance or indemnity to cover the liability of the investigator and sponsor which shall also cover the damages for the event of a death of the trial subject or an injury of the trial subject arising from the conduct of the clinical trial;
- j) the amount and, where appropriate, the arrangements for remunerating or compensating investigators and trial subjects and the relevant aspects of any agreement concluded by the sponsor and the trial site;
- k) the method of recruiting trial subjects.

(8) Compensations, insurance, and remunerations as per paragraph 7, (h) to (j) must be assessed by the ethics committee with respect to the protection of the rights, safety, and health of the trial subjects, within the scope stipulated by the implementing legal regulation.

(9) Unless stipulated otherwise by the below provisions, the ethics committee must within 60 days of the delivery date of the application give its reasoned opinion on the relevant clinical trial to the sponsor and, at the same time, provide it to the Institute. A 30-day extension of the period shall be applicable in the case of clinical trials involving medicinal products for gene

therapy or somatic cell therapy or medicinal products containing genetically modified organisms<sup>11)</sup>. In justifiable cases, this extended period may be extended for a further 90 days. In the case of xenogenic cell therapy there shall be no time limit to the period for the issuance of the opinion of the ethics committee.

(10) Within the period of the examination of the application for the purposes of issuance of an opinion in the cases established by this Act the ethics committee may send to the applicant a single request for information supplementary to that already supplied by the sponsor. The period defined for the issuance of the opinion shall be suspended until the delivery of the supplementary information to the ethics committee.

(11) The ethics committee shall ensure supervision over any clinical trial for which it has issued its favourable opinion, in intervals adequate to the degree of risk for trial subjects, no less, however, than once a year. Unless the activities of a dissolved ethics committee are not taken over by another ethics committee during the conduct of a clinical trial, the favourable opinion of the ethics committee on the conduct of the concerned clinical trial shall be considered void. In the event of dissolution of an ethics committee for multi-centric trials the activities of this committee may be taken over only by an ethics committee appointed as per paragraph 3.

(12) An ethics committee shall keep records of its operation for the period of at least three years following the completion of the clinical trial in the healthcare facility. Records on its activities conducted for other healthcare facilities shall be kept in same manner as stipulated in paragraph 1. Record-keeping in the event of dissolution of an ethics committee shall be organised by the entity which has established the relevant committee, or by the ethics committee which has taken over the activities of the defunct ethics committee. The types of records on the activities of the ethics committee and methods of their storage shall be stipulated by the implementing legal regulation.

(13) The ethics committee shall temporarily or permanently revoke its favourable opinion to conduct a clinical trial if new facts essential to the safety of trial subjects arise or if the sponsor or investigator seriously breach the conditions governing the conduct or design of the clinical trial for which the ethics committee has issued its favourable opinion as per paragraph 6. The revocation of the favourable opinion shall contain identification details of the clinical trial, justifications, actions pertaining to the termination of the clinical trial, revocation date of the favourable opinion, and signature of at least one authorised member of the ethics committee. With the exception of those cases where the safety of trial subjects is jeopardised, the ethics committee shall, before revoking its favourable opinion, request the position of the sponsor or of the investigator, as applicable. The implementing legal regulation shall stipulate the detailed scope of data to be included in the revocation of the favourable opinion.

<sup>62)</sup> E.g. Act No 123/2000 Coll., as amended.

## **Section 54**

### **Opinions of ethics committees on multi-centric clinical trials**

(1) Where multi-centric clinical trials to be conducted in the Czech Republic are concerned, the sponsor shall submit the application for an opinion to a single ethics committee for multi-centric trials; concurrently, the sponsor shall submit an application for an opinion to the ethics committees established in the healthcare facilities which are the planned trial sites (hereinafter referred to as the “local ethics committee”) and shall inform these ethics committees about the

ethics committee for multi-centric clinical trials with which the application for an opinion on the relevant clinical trial has been lodged. The application for an opinion must contain details of the sponsor, details specifying the subject-matter of the application, and its rationale. The scope of particulars regarding the application for an opinion and related documentation which are submitted to the ethics committees, details of their evaluation, hand-over of reports and opinions, mutual co-operation among ethics committees and with the Institute shall be stipulated by the special legal regulation.

(2) In its opinion, the ethics committee for multi-centric trials shall assess facts referred to in Section 53, paragraph 7 (a) to (c), (e), (g) to (k).

(3) The local ethics committee shall provide the sponsor with its opinion on the facts pursuant to Section 53, paragraph 7 (d) and (f) and shall express its final opinion on the conduct of the clinical trial at the given trial site. The local ethics committee shall not be entitled to request changes to the design of the clinical trial and relevant documentation, for which the ethics committee for multi-centric trials has issued its favourable opinion; it shall, however, be entitled to express its rejection of the conduct of the clinical trial at the given site which shall be final. A favourable opinion on the clinical trial issued by a local ethics committee shall be effective only if the ethics committee for multi-centric trials issues its favourable opinion.

(4) Where no local ethics committee has been established for any trial site, the opinion regarding the particular trial site may be provided by the ethics committee for multi-centric trials.

(5) Where multi-centric clinical trials conducted concurrently in several Member States and in the Czech Republic are concerned, the Institute shall provide a single opinion for the Czech Republic. This opinion shall be favourable only if the ethics committee for multi-centric trials and the Institute have issued favourable opinions on the relevant clinical trial, or, where applicable, on the amendments to its protocol.

(6) Odvolání souhlasného stanoviska s prováděním klinického hodnocení podle § 53 odst. 13 místní etickou komisí se vztahuje ke konkrétnímu místu hodnocení; odvolání souhlasného stanoviska etickou komisí pro multicentrická hodnocení má za následek ukončení klinického hodnocení v České republice. Prior to the revocation of its favourable opinion, the ethics committee for multi-centric trials shall request the position of the sponsor or, where applicable, of the investigator and local ethics committees, unless the safety of trial subjects is jeopardised.

## **Section 55**

### **Commencement of a clinical trial**

(1) The sponsor may commence a clinical trial only if:

- a) the ethics committee has issued a favourable opinion on the relevant clinical trial;
- b) the Institute has issued an authorisation to commence the clinical trial or has not rejected a clinical trial which is, according to paragraph 5, subject to notification.

(2) The application for authorisation or notification of a clinical trial pursuant to paragraph 5 lodged by the sponsor shall be assessed by the Institute for completeness and the Institute shall inform the sponsor of the outcome of this assessment within the maximum of 10 days of the delivery of the application. If the Institute notifies the sponsor of incompleteness of the

application, the sponsor may supplement the application for authorisation or notification of the clinical trial with respect to these facts; such supplementation may only be conducted once. If the sponsor fails to amend the application for authorisation or notification of the clinical trial as requested within 90 days of delivery of the notice, the Institute shall stop the procedure for this application. Authorisation pursuant to paragraph 6 concerning medicinal products containing genetically modified organisms shall be issued by the Institute after a proof of compliance with a special legal regulation<sup>11)</sup> is submitted. Where radiopharmaceuticals which are the source of ionising radiation<sup>13)</sup>, are concerned, the Institute shall request the opinion of the State Office for Nuclear Safety, which shall issue such opinion within 30 days of delivery of the request.

(3) If the application for authorisation or notification of a clinical trial has been found complete, the Institute shall conduct its assessment:

a) within 60 days of notifying the sponsor of its completeness; or

b) within 90 days where clinical trials on medicinal products as per paragraph 6 are concerned, with the exception of medicinal products without marketing authorisation in the Czech Republic or in the Member States which are not obtained by biotechnological processing. Where especially complex expert assessment is involved, this 90-day period shall be extended for a further 90 days.

(4) Where the Institute during its assessment of the application for authorisation or notification of a clinical trial identifies reasons for non-acceptance, it shall notify the sponsor to this effect and shall determine a reasonable period for the sponsor to amend the application to eliminate grounds for non-acceptance. Such amendment may only be done once. If the sponsor fails to amend the application for authorisation or notification of a clinical trial within the determined period of time accordingly, the Institute shall notify the sponsor in writing that the application is rejected. The period for the assessment of an application for authorisation of a clinical trial on a xenogenic cell therapy shall not be limited in time.

(5) The notification duty shall be applicable to such clinical trials in which the used investigational medicinal products are only products authorised in the Czech Republic or Member States or such products not authorised in the Czech Republic or Member States which are not obtained by biotechnological processing or where products not containing substances of human or animal origin are concerned. A notified clinical trial shall be authorised if the Institute does not reject the application within the period of 60 days of the notice on the completeness of the application and does not inform the sponsor of non-acceptance of the clinical trial, the time period being satisfied where the written notification has been provably sent to the Institute on the last day of the period. Where the investigational medicinal products are used in compliance with the marketing authorisation for the Czech Republic, this period shall be reduced to 30 days.

(6) Written authorisation issued by the Institute shall be required before commencing a clinical trial not specified in paragraph 5, particularly such clinical trial in which the investigational medicinal products are of the nature of a gene therapy, somatic cell therapy including xenogenic cell therapy or contain genetically modified organisms<sup>11)</sup>. No gene therapy clinical trials may be carried out which result in modifications to the trial subject's genetic identity.

(7) The application for the issue of an opinion of an ethics committee and applications for authorisation or notification of a clinical trial must contain details of the applicant as well as

details specifying the subject-matter of the application and its rationale. The scope of the application for the opinion of an ethics committee and of the application for authorisation or notification of a clinical trial and the contents of the submitted documentation is stipulated by the implementing legal regulation. Detailed guidance on the form and scope of these applications and documentation relevant to clinical trials shall be published by the Commission, the Agency, and the Institute.

(8) The sponsor shall be obliged to forthwith notify the Institute and the ethics committees of the commencement of a clinical trial. A clinical trial authorisation shall be regarded void if the clinical trial has not commenced within 12 months of the issue of the authorisation. The authorisation to commence a proposed clinical trial as per paragraph 5 can be used within the period of 12 months of the origination of such authorisation. Where the sponsor provides, within the maximum of 30 days prior to the expiry of the period referred to in sentence two or three the Institute with an evidence that facts under which the clinical trial had been assessed have remained unchanged, and applies for an extension of the effective period of the authorisation or of the period over which he or she may apply the authorisation to commence the notified clinical trial, the Institute shall extend the effective period of the authorisation or the period over which the sponsor may apply the authorisation to commence the notified clinical trial by further 12 months, if it finds the evidence adequate. The scope and method of informing the Institute and the ethics committee by the sponsor on the commencement of the clinical trial are stipulated by the implementing legal regulation.

(9) The sponsor shall make available the investigational medicinal products and, as the case may be, the devices used for their administration, free of charge. Where the sponsor is the investigator, healthcare facility, a university or the state via its organisational unit, and the investigational medicinal products are authorised in the Czech Republic, the free-of-charge provision of the investigational medicinal products shall not be obligatory. For the clinical trials in which manufacturers of medicinal products or persons commercially associated therewith are not involved, the scope and method of maintenance and storage of documentation as well as details of technical requirements governing the manufacture or import from a third country are stipulated by the implementing legal regulation.

(10) The sponsor shall be entitled to partially contract out the conduct of his or her obligations related to the clinical trial; the sponsor's responsibility for the accuracy and completeness of data on the clinical trial shall not be prejudiced thereby.

## **Section 56**

### **Conduct and end of a clinical trial**

(1) After the commencement of the clinical trial the sponsor may make changes to the protocol only in the form of amendments. If those amendments to the protocol are substantial:

- a) the sponsor shall notify the Institute of the amendment to the protocol prior to its application and, at the same time, shall provide reasons therefor, and shall inform the ethics committee(s) which provided its (their) opinion on the relevant clinical trial (hereinafter referred to as the “concerned ethics committee”) in the same manner; the scope of particulars contained in the notification, method of notification of amendments to the protocol and changes to the protocol which are considered substantial are stipulated by the implementing legal regulation;

- b) the concerned ethics committee shall provide its opinion on the amendments to the protocol of which it has been notified within 35 days of the notification thereof; where a multi-centric

clinical trial is concerned, the opinion shall be issued by that ethics committee for multi-centric clinical trials which has already issued its opinion on the commencement of the relevant clinical trial, and shall forthwith provide it to all ethics committees for individual sites of the relevant clinical trial, to the sponsor, and to the Institute; in issuing its opinion the local ethics committee shall apply provisions of Section 54, paragraph 3; if the local ethics committee issues an unfavourable opinion on the amendment to the protocol, it may, at the same time, revoke its favourable opinion on the conduct of the clinical trial at the given site; c) the Institute shall assess the proposed amendments to the protocol.

(2) If the opinion of the concerned ethics committee on the proposed amendment to the protocol is favourable and the Institute or the competent authorities of other Member States where the given trial is conducted have not informed the sponsor of non-acceptance of the amendment to the protocol within the period of 30 days, the sponsor may incorporate the abovementioned amendment to the protocol and implement it, the time period being satisfied if the written notification has been provably sent to the Institute on the last day of the period.

(3) Where any new fact relating to the conduct of the clinical trial or the development of the investigational medicinal product arises which may affect the safety of the trial subjects, the sponsor and the investigator shall be obliged to take urgent measures to protect the trial subjects against any immediate hazard. Provisions of paragraphs 1 and 2 shall not be prejudiced hereby. The sponsor shall forthwith inform the Institute and the concerned ethics committees of these new facts and of the measures taken.

(4) The sponsor shall regularly review and update the Investigator's brochure, no less than on an annual basis.

(5) Within 90 days of the end of a clinical trial the sponsor shall notify the Institute and the concerned ethics committees that the clinical trial has ended. If the clinical trial has been pre-terminated, the period stipulated by sentence one shall be reduced to 15 days; in this case the sponsor shall provide reasons for the early termination.

(6) The sponsor shall provide information pursuant to paragraph 1 (a) and paragraphs 4 and 5, and pursuant to Section 58, paragraph 4 also to the competent authorities of other Member States in which the relevant trial is being conducted.

(7) The sponsor or the investigator shall be obliged to keep clinical trial documentation, with the exception of documentation governed by a special legal regulation<sup>63)</sup> for the minimum period of five years of the end of the clinical trial. The implementing legal regulation stipulates the scope and method of storage of documentation by the sponsor and, where applicable, by the investigator.

(8) The Institute shall ensure that data defined by the Commission guidance are entered in the common Community database. The Institute shall provide any other information relating to the concerned clinical trial upon request of a Member State, Agency or Commission.

(9) The Institute shall suspend or prohibit the conduct of a clinical trial where the conditions laid down in the application for authorisation or notification of the clinical trial and in the relevant documentation are not being met or if it has obtained new information relevant to the safety of the trial subjects or to the scientific validity of the clinical trial. Before the Institute suspends or prohibits the conduct of the clinical trial, it shall, except where the safety of the

trial subjects is jeopardised, ask the sponsor, and, where appropriate, the investigator, for their opinion; the sponsor, or, where appropriate, the investigator, shall deliver this opinion to the Institute within seven days. The Institute shall suspend or terminate a clinical trial in the event of dissolution of the sponsor without any legal successor. The Institute shall forthwith inform the concerned ethics committees of its suspension or prohibition of a clinical trial and of the reasons for it.

(10) Where the Institute learns that the sponsor, the investigator or any other person involved in the conduct of the clinical trial does not meet the obligations laid down, it shall forthwith inform that person of the shortcomings, imposing corrective measures thereon. The Institute shall forthwith inform the concerned ethics committee of its course of action.

(11) The investigator, or where appropriate, the healthcare facility where the clinical trial is or was conducted shall be obliged to provide access to the medical records of trial subjects to the inspectors inspecting compliance with the requirements of legal regulations in the course of the clinical trial upon request of the inspectors.

(12) The Institute shall forthwith inform the competent authorities of other Member States where the clinical trial is being conducted, and the Commission of:

- a) measures referred to in paragraph 9 and of the reasons therefor; in this case the Institute shall, moreover, inform the Agency;
- b) measures referred to in paragraph 10.

(13) The sponsor, investigator and all persons involved in the conduct of the clinical trial shall be obliged to comply with the rules of good clinical practice, obeying the guidance of the Commission, the Agency, and more detailed guidelines of the Institute.

<sup>63)</sup> Act No 20/1966 Coll., as amended.  
Decree No 385/2006 Coll., on Medical records

## **Section 57**

### **Manufacture of investigational medicinal products, their import from third countries, and supervision over the conduct of clinical trials**

(1) The manufacture of investigational medicinal products and their import from third countries shall be subject to manufacturing authorisations. Manufacturing authorisation, however, shall not be required for treatment before administration or for re-packaging, if these activities are conducted in the healthcare facility by persons authorised to prepare or treat medicinal products and if the investigational medicinal product is intended solely for use within the relevant healthcare facility.

(2) The labelling of the investigational medicinal products shall show essential data in the Czech language. The implementing legal regulation stipulates the method of labelling and implementation of changes to information stated on the labelling made in the course of the clinical trial.

(3) The Institute verifies compliance with the principles of good clinical and manufacturing practice at sites concerned by the clinical trial, particularly at the trial site or sites, the manufacturing site of the investigational medicinal product, in laboratories used for analyses in the clinical trial, and at the sponsor's premises. A report prepared on any inspection shall be provided by the Institute to the sponsor, and, upon request, to the concerned ethics committee,



while safeguarding confidential aspects. After an agreement with the Institute and notification of the sponsor, compliance with the conditions of good clinical practice may be verified also by a competent authority of a Member State.

(4) The Institute shall inform the Agency about the inspections carried out as per paragraph 3. Upon request of the Agency, the Institute shall, moreover, carry out inspections to verify compliance with the principles of good clinical practice and good manufacturing practice in the manufacture of the investigational medicinal products. Upon request, the Institute shall provide the competent authorities of other Member States and the Agency with a report on the conducted inspection. The Institute may request from the Commission that the trial site as well as the sponsor's or manufacturer's premises which are located in a third country undergo a Community inspection.

(5) The Institute shall recognise the results of inspections conducted on behalf of the Community by the competent authorities of another Member State.

## **Section 58**

### **Notification of adverse events and reactions and reporting**

(1) The investigator shall forthwith report to the sponsor in a manner and within the period determined in the protocol or in the Investigator's Brochure serious adverse events with the exception of those events which are defined by the protocol or by the Investigator's brochure as events not requiring immediate reporting. The immediate report shall be followed by a detailed written report from the investigator, where trial subjects shall be identified with the allocated identification codes. Adverse events and laboratory abnormalities identified by the protocol as critical for safety evaluations shall be reported by the investigator to the sponsor according to the protocol requirements and within the time period specified by the protocol.

(2) For reported deaths of trial subjects the investigator shall supply the sponsor and the concerned ethics committee with any additional information requested.

(3) The sponsor shall keep records of all adverse events which have been reported to him or her by the investigator within the scope specified by the protocol of the relevant clinical trial. These records shall be submitted by the sponsor to the Institute and to the competent authorities of the Member States in which the clinical trial is being conducted if they so request.

(4) The sponsor shall ensure that all information about suspected serious unexpected adverse reactions that are fatal or life-threatening for a trial subject are recorded and reported to the Institute and the relevant ethic committees no later than seven days after knowledge by the sponsor of such a case, and that detailed follow-up information is subsequently communicated within an additional eight days. The sponsor shall proceed in this respect in compliance with the guidance of the Commission and the Agency.

(5) The sponsor shall ensure that any suspected serious unexpected adverse reactions not covered under paragraph 4 are reported to the Institute and the concerned ethics committees no later than 15 days after the knowledge by the sponsor of such a case.

(6) The Institute shall ensure that all suspected serious unexpected adverse reactions to the investigational medicinal product brought to his or her attention are recorded.

(7) The sponsor shall forthwith inform investigators about all suspected serious unexpected adverse reactions to the investigational medicinal product brought to his or her attention.

(8) Every 12 months, no later than within 60 days of the expiry of this period, for the duration of the clinical trial the sponsor shall provide to the Institute and to the ethics committee a report on the conduct of the clinical trial. The sponsor shall, moreover, provide to the Institute and to the ethics committee a periodic safety update report at least every 12 months. The implementing legal regulation stipulates the scope of details to be provided in the report on the conduct of the clinical trial and the scope of details to be provided in the periodic safety update report, incl. time periods governing its submission.

(9) The sponsor shall forthwith ensure that data on suspected serious unexpected adverse reactions to the investigational medicinal product brought to his or her attention are entered in the European database. In justifiable cases and following a discussion with the sponsor, the entry of data on suspected serious unexpected adverse reactions to the investigational medicinal product to the European database may be safeguarded by the Institute.

## **Section 59**

### **Change of the sponsor**

(1) The sponsor may apply with the Institute for the transfer of all of its obligations to another natural or legal person which will by means of this transfer fully undertake his or her rights and obligations. The application must contain data about the applicant as well as data specifying the subject-matter of the application, its rationale and date as of which the transfer is to be carried out. The application must be supported by the consent of the person to whom the obligations and tasks of the sponsor are to be transferred. The application may only be filed in respect of a single clinical trial. The implementing legal regulation stipulates the scope of details and the contents of the submitted documentation to be contained in the application for a change of the sponsor.

(2) The Institute shall assess the application for a change of the sponsor and within 30 days of its delivery it shall issue a decision by means of which it will approve or reject the required change.

(3) The change of the sponsor, giving the business name and registered office of the new sponsor, where a legal person is concerned, or the name(s), surname and address of business of the new sponsor, where a natural person is concerned, shall be forthwith notified by the new sponsor to the concerned ethics committees and to the investigators.

## **Section 60**

(1) A clinical trial on veterinary medicinal products shall mean their scientific evaluation conducted on the target species of animals in order to verify at least one scientific hypothesis which is related to the efficacy or safety of the investigational veterinary medicinal product for the target species of animals. A clinical trial on veterinary medicinal products is normally preceded by pre-clinical testing. Pre-clinical testing of veterinary pharmaceuticals shall be conducted on biological systems or animals under conditions defined by special legal regulations<sup>35)</sup> and in its course the principles of good laboratory practice shall be observed.

(2) A clinical trial on veterinary medicinal products shall be conducted under the conditions governing the design, conduct, monitoring, documenting, auditing, analysis, and processing and submission of reports on these trials (hereinafter referred to as “good veterinary clinical practice”). The implementing legal regulation stipulates the principles of good veterinary clinical practice.

(3) A pre-condition of a clinical trial on veterinary medicinal products shall be:

- a) an authorisation issued by the Veterinary Institute;
- b) a consent obtained from the animal breeder by means of which the breeder shall, having obtained a detailed knowledge of all aspects of the clinical trial on veterinary medicinal products, which can affect his or her decision, grant a voluntary consent with the inclusion of his or her animals in the clinical trial on veterinary medicinal products; obtaining of this consent must be properly documented;
- c) a consent obtained from the Regional Veterinary Administration of the appropriate jurisdiction where the clinical trial on veterinary medicinal products is to be conducted;
- d) a consent obtained from the competent state authority pursuant to a special legal regulation<sup>64)</sup>.

(4) In order to obtain the authorisation referred to in paragraph 3, the sponsor shall submit to the Veterinary Institute an application for authorisation of a clinical trial on veterinary medicinal products which shall be accompanied by:

- a) administrative data and scientific documentation of the clinical trial on veterinary medicinal products which shall fully describe the objectives, design, methodology and organisation of the clinical trial, the application of statistical methods within the scope of the clinical trial and a justification of the conduct of the clinical trial (hereinafter referred to as the “clinical trial protocol”);
- b) a proof of compliance with the conditions stipulated by a special legal regulation<sup>11)</sup>, where a veterinary medicinal product containing a genetically modified organism is concerned;
- c) a proof of payment of the administrative fee and of the reimbursement of costs.

The application for authorisation of a clinical trial on veterinary medicinal products must contain data on the applicant, a consent referred to in paragraph 3 (b) to (d) and a justification of the application. The implementing legal regulation stipulates the scope of details to be contained in the application and the scope of details to be contained in the clinical trial protocol.

(5) After the sponsor fulfils the conditions stipulated by paragraph 3 (b) to (d) and paragraph 4, the Veterinary Institute shall assess the application for authorisation of the clinical trial on veterinary medicinal products in order to establish, in particular, whether:

- a) the sponsor has proposed a sufficient withdrawal period and has adopted such measures so as to ensure compliance therewith, if the clinical trial involves food-producing animals; where substances for which no maximum residue limits have been established in compliance with a directly applicable Community Regulation<sup>5)</sup> are concerned, at least the standard withdrawal period as per Section 9, paragraph 10 must be observed;
- b) the sponsor is able to fulfil his or her obligations and, at the same time whether he or she has created adequate conditions for the fulfilment of the obligations of the investigator pursuant to Section 61, paragraph 4 and of the person conducting supervision over the clinical trial on veterinary medicinal products pursuant to Section 61, paragraph 5.

The implementing legal regulation stipulates a detailed scope of activities in the conduct of the clinical trial for the sponsor, the investigator and the person conducting supervision over the clinical trial on veterinary medicinal products.

(6) The Veterinary Institute shall decide on the application for authorisation of a clinical trial on veterinary medicinal products within 60 days of compliance with the conditions stipulated by paragraph 3 (b) to (d) and of the submission of a complete application and supplementing data pursuant to paragraph 4. In its decision the Veterinary Institute shall determine, with a view to the sponsor's proposal as referred to in paragraph 5 (a) the withdrawal period, if the clinical trial is conducted on food-producing animals. In its decision the Veterinary Institute may, furthermore, stipulate conditions governing the conduct of the clinical trial on veterinary medicinal products; the Veterinary Institute may stipulate such conditions also subsequently, after the issue of the authorisation of the clinical trial.

(7) In assessing the application for authorisation of a clinical trial on veterinary medicinal products, the Veterinary Institute may, if shortcomings are identified, invite the applicant to supplement the submitted data and documentation. Where the Veterinary Institute avails of this option, the procedure shall be suspended. The period of suspension shall commence on the day when the Veterinary Institute has made the invitation, and the procedure shall recommence on the day following the day when the required supplementation of the application has been delivered to the Veterinary Institute. Likewise, if necessary, the procedure shall be suspended for the period established for the sponsor to provide an explanation. If the suspension lasts for at least 180 days the procedure may be terminated.

(8) The Veterinary Institute shall decline the application for authorisation of a clinical trial on veterinary medicinal products and, where an active clinical trial is concerned, shall decide on its suspension or termination, if:

- a) the assessment of the application proves that the sponsor has not observed the conditions governing the issue of authorisation of a clinical trial;
- b) it is evidenced that the investigational medicinal products is not safe in the conditions of the clinical trial on veterinary medicinal products, including those cases where the administration of the veterinary medicinal product to animals may adversely affect the food obtained from these animals;
- c) the qualitative or quantitative composition of the veterinary medicinal product is not consistent with the data and documentation enclosed to the application for clinical trial;
- d) the clinical trial on veterinary medicinal products is not conducted under the conditions for which the authorisation has been granted;
- e) the sponsor or persons involved in the clinical trial on veterinary medicinal products seriously breach the obligations stipulated by this Act or by special legal regulations relevant to the care for animals<sup>35)</sup>; or
- f) the sponsor is dissolved.

(9) The sponsor shall inform in advance the Veterinary Institute of any changes to the conditions of the clinical trial inconsistent with those under which such authorisation has been issued; the change may be implemented after the expiry of 30 days of its notification unless the Veterinary Institute issues its rejection with the implementation of the change or unless it requests further source materials; changes associated with the sponsor's contact details may be implemented and the Veterinary Institute shall be forthwith informed thereof; these changes are stipulated by the implementing legal regulation.

(10) The authorisation of a clinical trial on veterinary medicinal products shall expire if the clinical trial does not commence within 12 months of the issue of the authorisation.

## **Section 61**

(1) The sponsor, the investigator and any persons involved in the clinical trial on veterinary medicinal products shall proceed in compliance with the principles of good clinical veterinary practice, including the observation of confidentiality and secrecy. A clinical trial on veterinary medicinal products may not commence if the foreseeable risks and discomforts outweigh the expected benefit.

(2) The sponsor shall be, furthermore, obliged to:

a) appoint the investigator with a view to his or her qualification, the nature of the clinical trial on veterinary medicinal products and the equipment of the facility where this clinical trial is to be conducted, and to ensure that it is described by a protocol and conducted in compliance with this protocol; the implementing legal regulation stipulates the content of this protocol and the method of its maintenance;

b) inform the Veterinary Institute:

1. on the commencement of the clinical trial on veterinary medicinal products and on the facility where it is to be conducted; the implementing legal regulation stipulates the method of provision of this information,

2. forthwith about new findings about the investigational veterinary medicinal product, including serious unexpected adverse reactions; a serious unexpected adverse reaction which has resulted in death or has been life-threatening for the animal or has caused suffering or inadequate pain for the animal, shall be notified by the sponsor within the period of maximum seven days; other serious unexpected adverse reactions shall be notified by the sponsor within the maximum of 15 days,

3. on measures imposed by the authorities of foreign countries in respect of the investigational veterinary medicinal product,

4. forthwith on the suspension of the clinical trial on veterinary medicinal products,

5. on the course of the clinical trial on veterinary medicinal products within 60 days of the completion of every 12 months of its conduct,

6. on the completion of the clinical trial on veterinary medicinal products by means of a report containing data about the person who has drawn up the report, data on the completed clinical trial on veterinary medicinal products, information on preliminary conclusions and on measures and changes implemented in the course of the clinical trial on veterinary medicinal products; the implementing legal regulation stipulates the scope of data to be contained in the report;

c) provide, for the purposes of conduct of the clinical trial on veterinary medicinal products, the investigator with the medicinal product manufactured in compliance with the principles of good manufacturing practice and to keep a sample thereof. The implementing legal regulation stipulates the method of labelling of these medicinal products.

(3) The sponsor may lodge an application for a change of the sponsor to another legal person. In this case, Section 59 shall be applied likewise, but the application shall be submitted to the Veterinary Institute.

(4) The investigator shall be obliged to conduct the clinical trial on veterinary medicinal products in compliance with this Act, and shall be responsible for the leadership of the team of persons conducting the clinical trial on veterinary medicinal products proper. The investigator shall be, furthermore, obliged to:

- a) safeguard safe handling of the investigational veterinary medicinal product;
- b) inform the Veterinary Institute and sponsor without delay of any serious adverse event, unless stipulated otherwise by the clinical trial protocol;
- c) adopt measures necessary to protect the life and health of the animal, including a suspension of the clinical trial, where appropriate; measures aimed at immediate elimination of the jeopardy presented to the animal shall not be considered changes to the conditions of the clinical trial;
- d) forthwith inform the Veterinary Institute and the sponsor of facts significantly affecting the conduct of the clinical trial or causing an increased risk for the animal;
- e) ensure the storage of clinical trial documentation for the period of 15 years; the implementing legal regulation stipulates the clinical trial documentation to be stored;
- f) safeguard confidentiality of any information;
- g) observe hygienic principles in respect of foodstuffs of animal origin in target animals.

(5) The person conducting surveillance over a clinical trial on veterinary medicinal products shall ensure for this clinical trial to be conducted, documented, and its results reported in compliance with the protocol of the clinical trial, with standard operating procedures, good veterinary clinical practice, requirements governing clinical trials on veterinary medicinal products stipulated by this Act and, if applicable, with the conditions established for the conduct of the clinical trial on veterinary medicinal products by the Veterinary Institute or a competent state authority in compliance with Section 60, paragraph 3(d).

(6) The sponsor shall fulfil the obligations stipulated by Section 51, paragraph 2(d) likewise.

(7) The sponsor shall reimburse the costs incurred by the Veterinary Institute in the clinical trial on veterinary medicinal products pursuant to Section 112.

## **Manufacture, preparation and distribution of pharmaceuticals**

### **Part 1 Manufacture**

#### **Section 62**

##### **Manufacture and import of medicinal products from third countries**

(1) Medicinal products may be manufactured by persons who have obtained an authorisation for this activity from the Institute or the Veterinary Institute. Manufacture of medicinal products for the purposes of export and clinical trials and manufacture of intermediate products of medicinal products shall also be subject to authorisation. A manufacturing authorisation shall also be required for imports of medicinal products coming from third countries, and the person organising this import shall have a certificate of quality controls conducted in compliance with the marketing authorisation dossier available for each batch of the medicinal product. The provisions of this Act governing the manufacture of medicinal products shall likewise apply to this import.

(2) The authorisation of manufacture of medicinal products referred to in paragraph 1 (hereinafter referred to as “manufacturing authorisation”) shall be required for complete manufacture, partial manufacture as well as any various manufacturing processes including re-packaging, packaging or modification of packaging. The Institute or the Veterinary

Institute may allow manufacturers of medicinal products in justifiable cases to commission the implementation of certain stages of manufacture or control with other persons; where persons operating in the Czech Republic are concerned, these persons must be manufacturers of medicinal products or control laboratories. The liability of a manufacturer of medicinal products, who has commissioned part of the manufacture, shall not be prejudiced in such a case. A manufacturing authorisation shall not be required for the preparation, re-packaging, changes in packaging or modification of packaging, where these activities are carried out in compliance with the conditions stipulated by this Act in a pharmacy or at other workplaces where medicinal products may be prepared pursuant to Section 79, paragraph 2.

(3) Copies of manufacturing authorisations issued by the Institute or the Veterinary Institute shall be provided by the concerned institute to the Agency.

(4) The Institute or the Veterinary institute may suspend the manufacture or import from third countries or suspend or revoke manufacturing authorisation for a group of medicinal products or for all medicinal products, if:

a) the data or conditions or obligations referred to in Section 63, paragraph 5 or in Section 67, paragraph 2 are changed; or

b) obligations stipulated by Section 64, Section 66, paragraphs 1 to 4, Section 67, paragraphs 3, 4, 7 or 10, or by Section 73 are not fulfilled;

and the obligation of the importer or blood centre to notify the change has not been complied with. The Institute or the Veterinary Institute shall suspend the manufacturing authorisation in those cases where the information obtained is not complete or such shortcomings are identified which may be eliminated. The Institute or the Veterinary Institute shall revoke the manufacturing authorisation in those cases, where the information obtained is complete or such shortcomings are identified which may not be eliminated. Repeal from the decision to suspend manufacture or import from third countries or to suspend or revoke a manufacturing authorisation shall have no suspensive effect.

### **Section 63**

#### **Authorisation of manufacture of medicinal products**

(1) Applications for manufacturing authorisations shall be lodged by natural or legal persons to the Institute or Veterinary Institute. The application must contain:

a) data about the applicant, data specifying the subject matter of the of the application and a rationale thereof;

b) the site where the medicinal products are to be manufactured or controlled specifying the medicinal products and pharmaceutical forms which are to be manufactured or imported from third countries;

c) evidence that the applicant has at his or her disposal suitable and sufficient premises, technical equipment and control facilities for the required activity complying with the requirements governing good manufacturing practice stipulated by the implementing legal regulation, with respect to the provisions of Section 31, paragraph 5 (d) and (e);

d) evidence that the applicant has at his or her disposal the services of at least one qualified person for the sphere of manufacture.

The implementing legal regulation stipulates the scope of particulars.

(2) The Institute or the Veterinary Institute shall be entitled to request from the applicant further information or documents relevant to the particulars specified in the application for manufacturing authorisation, including data about compliance with the requirements

governing the qualified person for the sphere of manufacture. Where the applicant has been invited in writing to supplement the application, the procedure shall be suspended upon the delivery of this invitation.

(3) Where the suspension of the procedure referred to in paragraph 2 has lasted for at least 90 days, the procedure of the manufacturing authorisation or variation thereto may be stopped.

(4) The Institute or the Veterinary Institute shall decide on the application for manufacturing authorisation within 90 days of its delivery. The manufacturing authorisation shall be granted after the prerequisites of the applicant to fulfil the obligations stipulated by Section 64 are verified on the site of the planned manufacture. The concerned institute shall keep files of the manufacturing authorisations issued thereby, manufacturing sites and scopes of manufacture, including persons who have been commissioned to carry out certain stages of manufacture or control.

(5) The manufacturing authorisation shall specify the premises in which manufacture may be carried out, pharmaceutical forms of medicinal products that may be manufactured, and the qualified person or qualified persons of the concerned manufacturer. In order to ensure that the requirements referred to in paragraph 1 (b) to (d) are complied with, the manufacturing authorisation may be made conditional on the carrying out of certain obligations imposed on the applicant. Such obligations may also be imposed after the manufacturing authorisation has come legally into effect, by means of a decision on variation to the manufacturing authorisation within the scope of a procedure initiated by the Institute or the Veterinary Institute of their own motion.

(6) The manufacturer of medicinal products shall be obliged to apply in advance with the Institute or the Veterinary Institute for variation to manufacturing authorisation where changes to the conditions under which the authorisation has been issued is considered. The Institute or the Veterinary Institute shall decide about this application within 30 days of the date of its delivery. Where it is necessary to carry out an inquiry on the site of manufacture, this period shall be 90 days. The application for variation must contain data about the applicant and about the required change. The implementing legal regulation stipulates the scope of data to be provided in the application.

(7) Changes to the data necessary for ensuring co-operation between the concerned institute and the manufacturer of medicinal products, particularly in the event of a quality defect of a medicinal product, shall be notified by the manufacturer of medicinal products to the Institute or the Veterinary Institute without delay; these changes shall not be considered variations to manufacturing authorisation.

(8) The concerned institute shall revoke a manufacturing authorisation upon request of the person to whom it has been granted, or under the conditions stipulated by Section 62, paragraph 4.

(9) Upon request of the manufacturer of medicinal products, exporter or competent authorities of a third country where the medicinal products is imported to, the Institute or the Veterinary Institute shall, within the scope of their jurisdiction, certify that the manufacturer of medicinal products is the holder of manufacturing authorisation. In the issue of such certificates, the Institute or the Veterinary Institute shall comply with the following conditions:

a) it shall take into account the administrative measures of the World Health Organisation<sup>65</sup>;



b) it shall provide the approved Summary of the Product Characteristics for medicinal products authorised within the territory of the Czech Republic which are intended for export. If the manufacturer of medicinal products is not the holder of marketing authorisation, it shall present to the Institute or the Veterinary Institute a justification explaining why the medicinal product does not have marketing authorisation in the Czech Republic.

<sup>65)</sup> WHO Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce, current version published by the World Health organisation.

## **Section 64**

### **Obligations of the manufacturer of medicinal products**

A manufacturer of medicinal products shall be obliged to:

- a) ensure that he or she has permanently and continuously at his or her disposal the services of at least one qualified person for the sphere of manufacture of medicinal products (hereinafter referred to as the “qualified person of the manufacturer”), who complies with the conditions established by Section 65; enable the qualified person of the manufacturer to carry out the obligations thereof and provide the qualified person with necessary authorisations; where the manufacturing authorisation holder is a natural person complying with the conditions established by Section 65, he or she may be, at the same time, the qualified person of the manufacturer;
- b) ensure that all manufacturing activities relevant to medicinal products with marketing authorisation are conducted in compliance with legal regulations, the marketing authorisation dossier, and the marketing authorisation; where the manufacture of human investigational medicinal products is concerned, ensure that all manufacturing activities are conducted in compliance with the information submitted by the sponsor pursuant to Section 55 and approved within the scope of the procedure relevant to the application for clinical trial authorisation or notification;
- c) regularly review his or her manufacturing processes in light of scientific and technical progress and implement necessary changes to the manufacture after the relevant variations to the marketing authorisation of medicinal products manufactured thereby have been approved;
- d) establish and ensure conditions for the operation of a quality control unit in a manner allowing for the independence of this unit with respect to other organisational units of the manufacturer of medicinal products;
- e) arrange for a person responsible for quality control, who has sufficient professional qualifications for this purpose; this person shall have at his or her disposal one or more quality control laboratories properly staffed and equipped for the conduct of the necessary retesting and testing of starting materials, packaging materials, and tests of intermediate products and finished medicinal products or shall have the option to avail of the services of such laboratories;
- f) establish and apply a system for recording and reviewing complaints and queries in respect of the quality of medicinal products including measures allowing for an immediate recall of a particular batch of a medicinal product should such need arise; the manufacturer shall be obliged to inform the Institute or the Veterinary Institute and, where appropriate, also the competent authority of another Member State and the Agency, about any defect that might result in a recall of the medicinal product or in an abnormal restriction on the supply of the medicinal product;
- g) where human investigational medicinal products are concerned, in cooperation with the sponsor establish and apply a system for recording and reviewing complaints and queries referred to in letter (f) likewise, and, furthermore, ensure the identification of all trial sites and, if appropriate, specify also the destination countries; where a human investigational

medicinal product for which marketing authorisation has been issued is concerned, the manufacturer of the human investigational medicinal product shall, in cooperation with the sponsor, inform the marketing authorisation holder about any defect that might be associated with the authorised medicinal product;

h) apply with the Institute or the Veterinary Institute for a variation to manufacturing authorisation pursuant to Section 63, paragraph 1 (b) to (d) and paragraph 6;

i) allow the employees of the authorities competent to carry out controls access to the premises used for his or her operation at any time;

j) carry out activities in compliance with the manufacturing authorisation, observe the principles of good manufacturing practice and Commission and Agency guidance; this provision shall apply also to medicinal products intended solely for export; the rules of good manufacturing practice are stipulated by the implementing legal regulation;

k) use as starting materials only those active substances which have been manufactured in compliance with the rules of good manufacturing practice during manufacture of raw materials and Commission and Agency guidance; the manufacture of active substances used as starting materials includes complete manufacture, partial manufacture, import from a third country, dividing up, packaging or modification of packaging prior to the use in the medicinal product, including re-packaging and re-labelling conducted by suppliers; in the case of human medicinal products, this obligation shall apply also to excipients stipulated by the implementing legal regulation;

l) ensure that the manufacturing processes used in the manufacture are validated in compliance with the rules of good manufacturing practice, particularly where the manufacture of immunological medicinal products and blood derivatives is concerned, and to attain batch-to-batch consistency;

m) where the manufacture of blood derivatives and other human medicinal products subject to marketing authorisation which contain substances from human blood or human plasma is concerned, ensure, insofar as the state of technology permits, that the absence of specific viral contamination is guaranteed;

n) for immunological medicinal products submit upon request of the Institute or the Veterinary Institute copies of all quality control documents signed by the qualified person as per Section 66, paragraphs 1 to 3 before the marketing of each batch of the medicinal product;

o) notify to the Institute the applied method of reducing or eliminating pathogenic viruses which may be transmitted by medicinal products referred to in letter (m);

p) where the manufacture of a finished product in the Czech Republic is concerned, have a quality control document for each batch of the medicinal product, a document of quality controls conducted for the components of the medicinal products and of quality controls conducted at the intermediate stage of the manufacturing process;

q) retain samples of each batch of a medicinal product and raw materials, including samples of human investigational medicinal products and raw materials used for their manufacture;

the implementing legal regulation stipulates the scope and method of retaining of samples;

r) in the event he or she imports medicinal products, including human investigational medicinal products, import from third countries only such medicinal products which have been manufactured by manufacturers duly authorised and conforming to good manufacturing practice standards at least equivalent to those laid down by this Act;

s) observe the requirements of a special legal regulation<sup>13)</sup> where the manufacture of radiopharmaceuticals is concerned.

## **Section 65**

### **Professional prerequisites of the qualified person of a manufacturer of medicinal products**

(1) The professional prerequisite for the pursuance of the position of a qualified person of a manufacturer shall be proper completion of a university course of study which provides university education extending over a period of at least four years of theoretical and practical study in one of the following disciplines of education:

- a) pharmacy<sup>31)</sup>;
- b) general medicine, dentistry or stomatology<sup>31)</sup>;
- c) veterinary medicine or veterinary hygiene and ecology;
- d) chemistry; or
- e) biology.

(2) The professional prerequisite for the pursuance of the position of a qualified person of a manufacturer may also be a course of study which provides a university education pursuant to paragraph 1 of minimum duration of three and half years if followed by a period of theoretical and practical training of minimum duration of one year and including a training period of at least six months in a pharmacy open to the public corroborated by an examination at university level.

(3) Where two university courses providing university education<sup>66)</sup> or two courses recognised by the concerned Member State as equivalent co-exist in the Communities, and where one of these normally extends over four years and the other over three years, the course with the standard three-year period leading to a diploma, certificate or similar evidence awarded on proper completion of the university course or its recognised equivalent shall be considered to fulfil the condition referred to in paragraph 2 in so far as the diplomas, certificates or other similar evidence of qualifications awarded on completion of both courses are recognised as equivalent by the State in question.

(4) The course of study must include theoretical and practical study bearing upon at least the following basic subjects:

- a) experimental physics;
- b) general and inorganic chemistry;
- c) organic chemistry;
- d) analytical chemistry;
- e) pharmaceutical chemistry, including control of pharmaceuticals;
- f) general and applied medical biochemistry;
- g) physiology,
- h) microbiology,
- i) pharmacology,
- j) pharmaceutical technology,
- k) toxicology,
- l) pharmacognosy, which concerns the study of the composition and effects of natural active substances of plant and animal origin.

(5) The scope of studies in the subjects listed in paragraph 4 must enable the person concerned to fulfil the obligations specified in Section 66. If the qualification of the qualified person of a manufacturer does not comply with the above specified requirements, his or her professional competence for the pursuance of the position of the qualified person of a manufacturer may, within the manufacturing authorisation procedure, be evidenced in an alternative manner which shall be assessed by the Institute or the Veterinary Institute.

(6) The qualified person of a manufacturer shall have acquired practical experience over at least two years with one or more manufacturers of medicinal products in the sphere of:

- a) qualitative analysis of medicinal products;
- b) quantitative analysis of medicinal products; and
- c) testing and controls necessary to ensure the quality of medicinal products.

The duration of this professional practical experience may be reduced by one year where the standard duration of a university course pursuant to paragraph 1 is established by the study programme as at least five years, and by 18 months where the standard duration of the course is established by the study programme as at least 6 years.

<sup>66)</sup> Section 44 of Act No 111/1998 Coll., as amended by Act No 147/2001 Coll.

## **Section 66**

### **Obligations of the qualified person of a manufacturer of medicinal products**

(1) The qualified person of a manufacturer shall be obliged to ensure that:

- a) each batch of medicinal products of the manufacturer concerned has been manufactured and checked in compliance with this Act, the marketing authorisation dossier and the marketing authorisation of the medicinal product concerned;
- b) in the case of medicinal products coming from third countries, regardless of the fact whether this product has been manufactured in the Community, each batch has, in the Czech Republic, undergone a full qualitative analysis, a quantitative analysis of at least all of the active constituents and all the other tests or controls necessary to ensure the quality of medicinal products in accordance with the terms of the marketing authorisation of the medicinal product concerned;

if the batch of a medicinal product has undergone the controls in the scope as per the provisions of letter (a) or (b) in a Member State and the control reports signed by the qualified person of the manufacturer are available, such batch shall be exempt from the controls.

(2) In the case of medicinal products imported from a third country, where appropriate arrangements have been made by the Community with the exporting country to guarantee that the manufacturer of medicinal products applies standards of good manufacturing practice at least equivalent to those laid down by the Community and to guarantee that the controls referred to in paragraph 1 (b) have been carried out in the exporting country, the qualified person may be thereby relieved of the responsibility for carrying out those controls.

(3) The qualified person of a manufacturer of medicinal products must certify in a register or equivalent document provided for that purpose that each production batch has satisfied the provisions of paragraphs 1 and 2; the said register or equivalent document must be kept up-to-date as operations are carried out and must be archived for at least five years.

(4) In the case of manufacture of medicinal products to be used as human investigational medicinal products in a clinical trial the qualified person of the manufacturer of medicinal products shall be responsible for compliance with the principles of good manufacturing practice pursuant to this Act and for observation of the documentation submitted as part of the application for clinical trial. The implementing legal regulation stipulates the scope of controls of human investigational medicinal products where imports from third countries are concerned and conditions governing their release.

(5) In the case of a jeopardy to public health arising from the breach of obligations of the qualified person of the manufacturer, the Institute or the Veterinary Institute shall file a notice pursuant to a special legal regulation<sup>67)</sup> and shall forthwith inform the manufacturer of medicinal products and the concerned qualified person of the manufacturer that this qualified person of the manufacturer must not continue to carry out the activities of a qualified person of a manufacturer until the proceedings concerning the matter in question are completed.

<sup>67)</sup> Section 8, paragraph 1 of Act No 141/1961 Coll., on Criminal Court Proceedings (Criminal Code), as amended by Act No 178/1990 Coll. a of Act No 558/1991 Coll.

## **Section 67**

### **Blood centres**

(1) The manufacture of transfusion products and raw materials for further production shall mean any activity leading to the origin of a transfusion product or a raw material for further production. The manufacture shall, moreover, mean the distribution of transfusion products and distribution of raw materials for further production, including distribution realised between the Czech Republic and another Member State.

(2) Transfusion products and raw materials for further production may be manufactured only by healthcare facilities authorised by the Institute to perform this activity. Manufacturing authorisation for transfusion products and raw materials for further production shall be issued after the prerequisites of the applicant to comply with the quality and safety standards stipulated by this Act are verified. The application for manufacturing authorisation for transfusion products and raw materials for further production must contain data about the applicant as well as data specifying the subject-matter of the application and a rationale thereof. The implementing legal regulation stipulates the scope of data to be contained in the application and definition of the scope of quality and safety standards in the manufacture of transfusion products and raw materials for further production.

(3) Provision of Section 63 shall likewise apply to the authorisation of manufacture of transfusion products and raw materials for further production. The Institute may in justifiable cases allow a blood centre to commission certain stages of manufacture or control with other persons. Where activities leading to the generation of a transfusion product or a raw material for further production are concerned, and the persons conducting these commissioned activities within the scope of manufacture or control in the Czech Republic, they must be manufacturers of medicinal products, blood centres or control laboratories. The responsibility of the blood centre which has commissioned the work shall remain, in such a case, without prejudice. Where distribution of a transfusion product and a raw material for further production is concerned, the blood centre shall be entitled to commission such distribution also with a person other than the manufacturer. In such a case it shall contract its right to inspect compliance with the requirements of this Act at such a person's premises.

(4) The operator of a blood centre must comply with the obligations referred to in Section 64 (d), (e), (h), (i) and (j), and, furthermore, shall be obliged to:

- a) ensure the services of a qualified person of the blood centre pursuant to paragraphs 6 and 7
- b) ensure that the risk of transmission of disease-transmitting agents transmissible by human blood is reduced to the minimum;
- c) ensure that the manufacturing procedures applied in the manufacture of transfusion products and raw materials for further production are validated in compliance with the principles of good manufacturing practice and product-to-product consistency is achieved;

- d) keep a sample of each collection of blood or its constituent;
- e) maintain and archive documentation and records;
- f) establish a system for the identification of donors, every single collection, every type and unit of a transfusion product and raw material for further production, including compliance with the requirements for their indication; establish a record-keeping system for donors, collections and individual units of transfusion products and raw materials for further production in a manner allowing for the traceability of the origin and application of individual units of the transfusion product and raw material for further production and data about them;
- g) inform the purchaser of the transfusion product and raw material for further production about additional findings which may be the cause of a serious adverse reaction or which are rated as a serious adverse event or suspected serious adverse event, and if the recipient is exposed to a health hazard arising from the previously administered transfusion product and the notification is not organised by the healthcare provider, ensure also that the recipient is informed;
- h) establish and maintain a system for the monitoring and evaluation of adverse events and adverse reactions, accidents and errors, including a procedure allowing, where necessary, to carry out any available measures aimed at remedying the situation and reducing the adverse effects of the transfusion product to the lowest practicable degree, including also a procedure for the recall of the transfusion product and raw material for further production from further use;
- i) safeguard, within the scope and in a manner stipulated by the implementing legal regulation and in compliance with Community guidance:
  - 1. the traceability of data about the donor of blood or blood component, collection thereof, transfusion product and raw material for further production;
  - 2. information to be provided to donors of blood or blood components,
  - 3. information which must be obtained by the blood centre from donors of blood or blood components, including their identification, history, and signature of the donor,
  - 4. assessment of eligibility of donors of blood and blood components and testing of donated blood and blood components, which include the criteria for permanent exclusion and possible exemptions from these criteria and criteria for temporary exclusion,
  - 5. storage, transportation, and distribution,
  - 6. the quality and safety of transfusion products and raw materials for further production,
  - 7. compliance with the requirements governing the manufacture of transfusion products manufactured from previously collected blood or blood components and intended for administration to the donor (autologous transfusion product),
  - 8. compliance with the requirements governing the quality system and good manufacturing practice in the blood centre;
- j) provide, on an annual basis, a report of its activities to the Ministry of Health;
- k) take transfusion products only from another blood centre and distribute transfusion products only to a blood centre and a blood bank; this provision shall not prejudice the return of a transfusion product by a blood bank;
- l) fulfil the obligations stipulated in Section 83, paragraph 5 (a) to (c) where blood derivatives are concerned;

the implementing legal regulation stipulates the scope of keeping a sample, the scope and method of record-keeping and archival, the scope and method of the identification of a donor, collection and transfusion product, the scope and method of record-keeping allowing for traceability, the scope and method of notifying the purchaser as per letter (g), the method of submitting the report on activities, the scope of particulars and timelines for the submission

referred to in letter (j), the method of collection and distribution of a transfusion product pursuant to letter (k).

(5) The operator of a blood centre who is the holder of the authorisation referred to in paragraph 2 shall be authorised to:

a) use and store, under the conditions stipulated by a special legal regulation<sup>36)</sup> the birth number of the donor from whom it has collected blood or blood components for the purposes stipulated in Section 24, paragraph 2;

b) on the basis of an approval referred to in Section 24, paragraph 4 take a transfusion product from a Member State facility authorised to operate by the competent authority of the concerned State, and arrange for the distribution of the transfusion product to the Czech Republic or for its dispensing; prior to such distribution or dispensing, the qualified person of the taking blood centre shall verify compliance with requirements adequate to the requirements of this Act; where compliance with these requirements is not achieved, the blood centre must not distribute or dispense the transfusion product; the implementing legal regulation stipulates the scope and method of such verification;

c) in the event of an urgent and immediate need, ensure a transfusion product for healthcare delivery to individual patients; the dispensing shall be conditioned by the approval of the qualified person of the blood centre and of the attending doctor granted after the risks and benefits for the patient are assessed, and if possible with respect to the condition of the recipient of the transfusion product, also his or her approval; the implementing legal regulation stipulates the method of issuing such approval.

(6) The professional prerequisite for a qualified person of a blood centre shall be a properly completed university course of study consisting of at least four years of university theoretical and practical education in the sphere of pharmacy<sup>31)</sup>, general medicine<sup>31)</sup>, biochemistry or biology and at least three years of professional practical experience, of which two years are served in a blood centre or a blood bank.

(7) A qualified person of a blood centre shall be obliged to ensure that:

a) the collection, testing, and processing of each unit of blood and blood component as well as the control, release, storage and distribution of each unit of a transfusion product, including a transfusion product distributed within the Community, imported from a third country or exported to a third country and each unit of raw material for further production comply with this Act;

b) the Institute is notified of serious adverse events and serious adverse reactions or suspected serious adverse events and serious adverse reactions; that adverse events and adverse reactions are evaluated and any available measures to eliminate the adverse effects of the transfusion product and raw material for further production including their potential recall from further use adopted; the implementing legal regulation stipulates the scope and method of these notifications;

c) compliance with the requirements for employees, documentation and records, the quality system and good manufacturing practice and for the identification and traceability of every donor, every collection therefrom and every transfusion product and raw material for further production, including their purchasers and recipients, is achieved.

(8) Some of the activities of a qualified person of a blood centre referred to in paragraph 7 may be also carried out by other persons qualified by their education and practical experience to pursue the concerned activities, without prejudice to the responsibility of the qualified person of a blood centre pursuant to paragraph 7. The blood centre shall inform the Institute

about the name or, where applicable, names and surnames of the qualified person as per paragraph 4 (a) and other persons referred to in previous sentence as well as about specific activities for which these persons are responsible. Where any of these persons is temporarily or permanently replaced the blood centre shall forthwith notify the Institute of the name of the new person and of the date as of which that person undertakes its position.

(9) Provisions of Section 66, paragraph 5 shall be applied to a serious breach of obligations of the qualified person referred to in paragraph 7 (a).

(10) A manufacturing authorisation for transfusion products shall be also required for the import of transfusion products from third countries. Where import of a transfusion product from a third country is concerned, the qualified person of the importing blood centre shall verify compliance with requirements at least adequate to those of this Act in the collection and manufacture of the imported transfusion product; the implementing legal regulation stipulates the scope and method of this verification. A transfusion product shall not be imported from a third country if the requirements stipulated in the previous sentence are not satisfied and if the Ministry of Health has not issued an approval as per Section 24, paragraph 4; this shall not apply to urgent and immediate need to ensure a transfusion product for healthcare delivery to individual patients, where the import from a third country is preconditioned by the approval of the qualified person and of the attending doctor granted after the risks and benefits for the patient are assessed, and if possible with respect to the condition of the recipient of the transfusion product, also his or her approval; the implementing legal regulation stipulates the procedure of granting such approval.

(11) The operator of a blood centre shall be authorised to dispense transfusion products. The procedure and method of dispensing of transfusion products is stipulated by the implementing legal regulation.

## **Section 68**

### **Healthcare facility with a blood bank**

(1) The operator of a healthcare facility with a blood bank shall be obliged to:

- a) ensure compliance with the requirements for quality system and good manufacturing practice, including, in particular, the training of employees, safeguarding documentation and process management and maintaining material base of the operation, and requirements for the activities conducted by the blood bank in compliance with this Act;
- b) meet, within the scope of operation of the blood bank, the requirements stipulated by Section 67, paragraph 4 (e) to (h) and (i), items 1 and 5 to 8, and (j) likewise;
- c) ensure the services of a qualified person of the blood bank;
- d) notify the Institute of the commencement and termination of operation of the blood bank which is part thereof, no later than within 15 days.

(2) The professional prerequisite for the pursuance of the position of a qualified person of a blood bank shall be a properly completed four-year university course of study consisting of at least four years of university theoretical and practical education in the sphere of pharmacy<sup>31)</sup>, general medicine<sup>31)</sup>, biochemistry or biology and at least one year of professional practical experience served in a blood centre or blood bank; the qualified person of a blood bank shall be responsible for compliance of the operation of the blood bank with this Act.

## **Section 69**



## **Control laboratory**

(1) A control laboratory shall mean a laboratory verifying the quality of medicinal products, active substances, excipients, intermediate products or packaging, including partial testing.

(2) The activities of a control laboratory shall be subject to authorisation issued by the Institute or the Veterinary Institute on the basis of an application of a natural or legal person. The application must contain data about the applicant, data about the subject-matter of the application and a rationale thereof. The implementing legal regulation stipulates the scope of these particulars. The granting of an authorisation to engage in activities of a control laboratory, variations thereto and revocation thereof shall be adequately governed by the provisions of Section 63, paragraph 1 (c) and paragraphs 2 to 9, but the provisions referring to the qualified person shall not be applicable. Where a manufacturer of medicinal products is concerned, the manufacturing authorisation shall include also the manufacturer's authorisation to conduct controls.

(3) The operator of a control laboratory must comply with its obligations stipulated by Section 64 (b), (d), (e), (i), (j), (l), (m), and (s).

(4) The operator of a control laboratory shall be obliged to apply beforehand with the Institute or the Veterinary Institute for a variation to the authorisation to engage in activities of a control laboratory if he wishes to make any changes to the particulars submitted pursuant to paragraph 2.

## **Section 70**

### **Responsibilities of manufacturers of active substances and excipients**

(1) A manufacturer of active substances, or, where applicable, a manufacturer of excipients stipulated by the implementing legal regulation (hereinafter referred to as the “manufacturer of raw materials”) shall be obliged to comply, in the manufacture of raw materials, with the principles of good manufacturing practice as established by the implementing legal regulation and by Commission and Agency guidance. Compliance with the principles of good manufacturing practice in the manufacture of raw materials shall be evidenced by the certificate of the manufacturer of raw materials. The certificate of the manufacturer of raw materials for the manufacture of human as well as veterinary products shall be issued by the Institute or the Veterinary Institute; where legal regulations or Commission guidance stipulate different requirements governing the manufacture of raw materials for the manufacture of human medicinal products and for the manufacture of veterinary medicinal products, the certificate of the manufacturer of raw materials shall be issued by the Institute or the Veterinary Institute within the scope of their jurisdiction. Manufacturers who manufacture only excipients or excipients as well as active substances, shall apply for the issue of the certificate with the Institute; this shall not prejudice the provisions of paragraphs 2 and 3.

(2) The Institute shall, in co-operation with the Veterinary Institute, maintain a list of manufacturers of raw materials for whom the certificate referred to in paragraph 1 has been issued. For the purposes of maintenance of this list, the Institute and the Veterinary Institute shall provide each other with information on the issued certificates or on revocations thereof, on findings from inspections at the manufacturers of raw materials and data necessary to ensure co-operation with the manufacturers of raw materials. Where it is identified that the operation of a manufacturer of raw materials is not consistent with the requirements of this

Act, the Institute or the Veterinary Institute may revoke the certificate issued thereby and delete such manufacturer of raw materials from the list of manufacturers of raw materials who are the holders of the certificate; information on such deletion shall be notified by the Institute or the Veterinary Institute, which has identified facts leading to the deletion from this list, to the competent authorities of the Community and to manufacturers of medicinal products who take raw materials from the concerned manufacturer of raw materials.

(3) A manufacturer of raw materials shall forthwith notify both the Institute and the Veterinary Institute of his commencement of operation and of such quality defects of active substances or excipients which require a recall of the active substance or medicinal products manufactured therefrom or a recall of the excipients or medicinal products manufactured therefrom. Likewise, the manufacturer of raw materials shall notify also facts necessary for ensuring co-operation between the concerned institute and the manufacturer of raw materials and changes thereto.

(4) A manufacturer of raw materials who manufactures gases used in the delivery of health care shall evidence the quality of those gases unless they are authorised medicinal products. The implementing legal regulation stipulates the method of this evidencing.

## **Section 71**

(1) The manufacture of veterinary autogenic vaccines shall be likewise governed by the provisions of Sections 62 to 66 referring to the manufacture of medicinal products.

(2) Veterinary autogenic vaccines shall be manufactured and supplied only to the veterinarian on the basis of a prescription issued thereby. The implementing legal regulation stipulates the particulars of the prescription for the manufacture of veterinary autogenic vaccines issued by the veterinarian (hereinafter referred to as the “prescription for veterinary autogenic vaccines”) and conditions of handling thereof by veterinarians and manufacturers. A batch of a veterinary autogenic vaccine shall mean an amount of the vaccine manufactured in compliance with the prescription for veterinary autogenic vaccines.

(3) Veterinary autogenic vaccines may be prescribed, manufactured or placed on the market only for the purposes of resolving a current disease epidemic in a particular animal holding at the locality in question and under the condition that no effective authorised veterinary immunological medicinal product containing any pathogen or antigen contained in the veterinary autogenic vaccine is available which could help resolve the situation.

(4) Veterinary autogenic vaccines may be manufactured only from pathogens or antigens which have been obtained from the animal or animals of one holding in one locality and which have been isolated by the manufacturer of medicinal products.

(5) The pathogens or antigens obtained and isolated pursuant to paragraph 4 may be used for the manufacture of veterinary autogenic vaccines for the maximum period of six months of their collection, unless the relevant manufacturer of veterinary autogenic vaccines proves, by means of a verification which shall be repeated at intervals not exceeding six months of the previous verification, that the pathogens or antigens may continue to be used for the manufacture of autogenic vaccines in respect of the current disease epidemic in the said animal holding.

(6) Prior to the commencement of manufacture of each batch of the veterinary autogenic vaccine the manufacturer thereof shall notify the Veterinary Institute and the Regional Veterinary Administration, within the jurisdiction of which the vaccine is to be used, of the commencement of the manufacture. The notification must contain data about the applicant, data about the subject-matter of the notification and a rationale. The implementing legal regulation stipulates the scope of particulars of this notification.

## **Section 72**

(1) The manufacturer of veterinary autogenic vaccines shall be obliged to ensure that the veterinary autogenic vaccines have been labelled on immediate and, if present, also on outer packaging in a manner ensuring the safe use of the veterinary autogenic vaccine in the concerned holding. Each pack of a veterinary autogenic vaccine must be accompanied with a package leaflet; this shall not apply if all particulars which must be contained in the package leaflet are shown on the immediate packaging of the veterinary autogenic vaccine. Veterinary autogenic vaccines may be used only in compliance with the particulars shown on the labelling or in the package leaflet of the autogenic vaccine. The implementing legal regulation stipulates the scope of particulars to be shown on the packaging of veterinary autogenic vaccines and requirements for the structure and content of the package leaflet.

(2) Prior to the application of the veterinary autogenic vaccine the concerned veterinarian must perform a tolerability test on the target animals in compliance with the instructions stated on the labelling or in the package leaflet of the veterinary autogenic vaccine.

(3) It is prohibited to use veterinary autogenic vaccines:

- a) subject to decision to this effect taken by the Veterinary Institute or by the relevant veterinary surveillance authority with a view to veterinary measures adopted pursuant to a special legal regulation<sup>18)</sup>;
- b) with a quality defect;
- c) with expired shelf life; or
- d) stored under conditions diverging from those stipulated by the manufacturer thereof.

(4) The manufacturer of veterinary autogenic vaccines shall be obliged to notify, within 30 days of the knowledge thereof, to the Veterinary Institute any suspected quality defect or any suspected adverse reactions associated with the use of the veterinary autogenic vaccine manufactured thereby; this shall not apply where the attending veterinarian has already informed the Veterinary Institute in a provable manner about the suspected quality defect or suspected adverse reaction.

(5) The attending veterinarian shall be obliged to notify, within 15 days at the latest, the manufacturer who has manufactured the veterinary autogenic vaccine in question, of:

- a) any suspected quality defects of the veterinary autogenic vaccine; or
- b) any suspected adverse reactions associated with the use of the veterinary autogenic vaccine.

## **Special rules governing the manufacture, marketing, prescribing, and use of medicated feedingstuffs**

## **Section 73**

(1) Medicated feedingstuffs may be manufactured only from medicated pre-mixes and marketed only on the basis of a medical prescription issued by a veterinarian (hereinafter referred to as the “prescription for medicated feedingstuff”) and in compliance with the manufacturing authorisation of the medicated feedingstuff. A prescription for medicated feedingstuff must be issued in compliance with the conditions established by the marketing authorisation of the concerned medicated premix. A batch of a medicated feedingstuff shall mean such quantity of the medicated feedingstuff which is manufactured on the basis of one prescription from the veterinarian or in one manufacturing cycle. Every batch of a medicated feedingstuff imported from a third country must be examined on the territory of the Czech Republic in compliance with the conditions established by the manufacturing authorisation for medicated feedingstuffs.

(2) The manufacture of medicated feedingstuffs shall be likewise governed by the provisions of this Act in respect of the manufacture of medicinal products, with the exception of requirements governing the qualifications of the qualified persons of manufacturers of medicated feedingstuffs and their activities pursuant to Section 65 and requirements governing the import of medicated feedingstuffs from third countries.

(3) Medicated feedingstuffs may be distributed from Member States only on the basis of a prescription for medicated feedingstuff and in compliance with the requirements laid down in Section 74, paragraphs 9 to 12.

(4) The manufacturer of medicated feedingstuffs shall be obliged in respect of commissioned manufacture or control of medicated feedingstuffs:

a) carried out in third countries, to submit to the Veterinary Institute a certificate issued by the competent authority of the concerned third country, evidencing that the manufacturing or control site for medicated feedingstuffs has been authorised by the competent authority and that it is subjected to regular inspections, and, if applicable, other documents to evidence the conditions under which medicated feedingstuffs are manufactured or controlled;

b) carried out in a Member State, to ensure that medicated feedingstuffs are manufactured or controlled in compliance with the Community regulations and to submit to the Veterinary Institute a certificate issued by the competent authority of the Member State in question stating that the manufacturer of medicated feedingstuffs has obtained a valid manufacturing authorisation for medicated feedingstuffs issued by the competent authority of the Member State.

(5) Where commissioned manufacture or control of medicated feedingstuffs is concerned, the manufacturer of medicated feedingstuffs shall be, moreover, obliged to provide the inspectors of the Veterinary Institute with a possibility to conduct an on-site inspection at the place of the commissioned manufacture or control of medicated feedingstuffs where doubts arise as to whether the medicated feedingstuffs are manufactured or controlled in compliance with this Act.

(6) The manufacturer of medicated feedingstuffs shall be authorised to commission part of their manufacture to another person, without prejudice to the liability of the manufacturer of medicated feedingstuffs.

(7) The manufacturer of medicated feedingstuffs must, furthermore, ensure that:

- a) a medicated feedingstuff is manufactured or placed on the market in compliance with the conditions referred to in the prescription for the medicated feedingstuff issued pursuant to Section 74, paragraphs 1 to 3;
- b) only medicated feedingstuffs or combinations thereof which are in compliance with the requirements stipulated by a special legal regulation<sup>68)</sup> are used in the manufacture of medicated feedingstuffs;
- c) the feedingstuff used produces a homogeneous and stable mix with the relevant medicated pre-mix;
- d) the medicated pre-mix is used during the manufacture of medicated feedingstuffs in accordance with the marketing authorisation and that:
  - 1. there is no possibility of any undesirable interaction between the medicated pre-mix used, additives<sup>68)</sup> or feedingstuffs<sup>68)</sup>,
  - 2. the medicated feedingstuff keeps its properties for the established shelf life,
  - 3. the feedingstuff to be used for producing the medicated feedingstuff does not contain the same antibiotic or the same coccidiostat as those used as an active substance in the medicated pre-mix.

(8) Where the provisions of paragraph 7 are not satisfied the manufacturer of medicated feedingstuffs must not manufacture the medicated feedingstuff or place it on the market.

(9) The qualified person of a manufacturer of medicated feedingstuffs must have:

- a) a university degree in an accredited masters study programme in pharmacy as laid down by a special legal regulation<sup>31)</sup>, an accredited masters study programme in veterinary medicine or in an accredited masters study programme in veterinary hygiene and ecology, an accredited healthcare masters study programme in general medicine, dentistry, stomatology, biological or technical disciplines of agriculture, biology or chemistry;
- b) two years of professional practical experience in the manufacture or control of pharmaceuticals and a completed specialised course; the implementing legal regulation stipulates the scope of the specialised course; the qualified person shall be obliged to keep its theoretical and practical knowledge up-to-date with respect to current level of scientific knowledge and technical progress; the manufacturer concerned shall be obliged to facilitate the qualified person of a manufacturer of medicated feedingstuffs with conditions enabling further education.

(10) The qualified person of a manufacturer of medicated feedingstuffs shall be responsible:

- a) for ensuring that each batch of the medicated feedingstuff is manufactured and controlled in compliance with this Act and that it is manufactured in accordance with the terms of the marketing authorisation of the concerned authorised medicated pre-mix;
- b) where medicated feedingstuffs coming from third countries are concerned, for ensuring that the relevant batch of the medicated feedingstuff is controlled within the territory of the Czech Republic pursuant to the terms of the manufacturing authorisation.

<sup>68)</sup> Act No 91/1996 Coll., on Feedingstuffs, as amended.

## **Section 74**

(1) In the prescription for a medicated feedingstuff the attending veterinarian who issues the prescription shall specify the method of placement of the medicated feedingstuff onto the market in compliance with paragraph 7. The prescription for a medicated feedingstuff shall be effective for the maximum period of 14 days of the date of its issue. The manufacture of a

medicated feedingstuff or its placement onto the market based on a single prescription for medicated feedingstuff may not be repeated. The implementing legal regulation stipulates the method, requirements for the content and structure of the prescription for medicated feedingstuffs, the number of copies of this prescription to be made, and the method of handling thereof.

(2) A prescription for a medicated feedingstuff must be made out so that the daily dose of the medicated pre-mix is contained in a quantity of feedingstuff corresponding to at least half the daily feed ration of the animals treated if the medicated pre-mix is mixed with feedingstuffs, or, in the case of ruminants, corresponding to at least half the daily requirement of nonmineral supplementary feedingstuffs if the medicated pre-mix is mixed with nonmineral supplementary feedingstuffs.

(3) Prior to the issue of the prescription for a medicated feedingstuff the attending veterinarian in question must make sure that the administration of the medicated feedingstuff is not incompatible with the previous treatment and that there is no undesirable interaction where several pre-mixes are to be used in the manufacture of the medicated feedingstuff.

(4) The attending veterinarian in question may prescribe a medicated feedingstuff only in quantities necessary for the resolution of the specific situation in respect of the animals treated; the period of administration of the medicated feedingstuff must not exceed the time limit established by the marketing authorisation of the medicated pre-mix used in the manufacture of the medicated feedingstuff.

(5) Medicated feedingstuffs shall be labelled according to the nature of the feedingstuff used pursuant to the requirements laid down by a special legal regulation<sup>68</sup>). The implementing legal regulation stipulates further particulars to be shown on the labelling of medicated feedingstuffs. These data shall be conveyed in the Czech language.

(6) Where medicated feedingstuffs are placed on the market in road tankers for freely laid materials, data referred to in paragraph 5 shall be stated in documents which accompany the medicated feedingstuff.

(7) Medicated feedingstuffs may be placed on the market by manufacturers of medicated feedingstuffs where feedingstuffs manufactured thereby are concerned, and by distributors with a distribution authorisation for medicated feedingstuffs and to supply them in compliance with the prescription for the medicated feedingstuff to:

- a) the attending veterinarian who has issued the prescription for medicated feedingstuff in question solely for subsequent use by the said veterinarian; or
- b) the breeder identified in the prescription for medicated feedingstuff in question.

(8) Medicated feedingstuffs may be placed onto the market only in sealed original packaging which is secured in a manner ensuring that after the opening thereof the packaging or seals of road tankers for freely laid materials remain permanently, irreversibly and visibly damaged.

(9) The import of medicated feedingstuffs from third countries shall be likewise governed by the provisions of this Act pertaining to the manufacture of medicated feedingstuffs.

(10) Only those medicated feedingstuffs which have been manufactured in the Community by persons currently authorised to manufacture medicated feedingstuffs in the concerned

Member State and which have been manufactured in compliance with the requirements established by the prescription for a medicated feedingstuff issued by the concerned attending veterinarian may be distributed from the Member States to the Czech Republic; in this case the concerned veterinarian prescribes medicated premixes authorised in the Member State where the medicated feedingstuff is manufactured, the composition of which is consistent with the medicated premixes authorised in the Czech Republic, or medicated premixes authorised pursuant to the directly applicable Community regulation<sup>24)</sup>.

(11) A medicated feedingstuff distributed from Member States must comply with the requirements governing feedingstuffs stipulated by a special legal regulation<sup>68)</sup> and must be accompanied by an accompanying certificate issued by the competent control authority in the concerned Member State and by the concerned prescription for the medicated feedingstuff in question in compliance with the requirements stipulated by paragraph 1.

(12) The person who distributes a medicated feedingstuff to the Czech Republic shall supply the medicated feedingstuff only to the person who is identified as the recipient of the given medicated feedingstuff in the relevant prescription for the medicated feedingstuff pursuant to paragraph 1. The quantity of the medicated feedingstuff distributed from Member States must be in compliance with the relevant prescription for the medicated feedingstuff. The certificate referred to in paragraph 11 shall be kept by the person to whom the medicated feedingstuff is supplied for the period of three years of the delivery of the medicated feedingstuff; this person shall, within seven working days, send a copy thereof to the Veterinary Institute and to the Regional Veterinary Administration concerned.

(13) In the case of non-compliance with the conditions established by paragraphs 11 and 12, the Veterinary Institute shall rule that the use of the concerned medicated feedingstuff be suspended, or where applicable, the medicated feedingstuff disposed of. Costs associated with the disposal shall be covered by the owner of the medicated feedingstuff in question.

(14) In the case of distribution of medicated feedingstuffs to other Member States, if requested by the concerned Member State, the manufacturer or distributor of the medicated feedingstuff shall attach to the consignment of the medicated feedingstuff a certificate issued by the Veterinary Institute on the basis of an application of the manufacturer or distributor to certify that the medicated feedingstuff in question has been manufactured by a person to whom an authorisation for manufacture of medicated feedingstuffs has been granted in compliance with the requirements stipulated by Community legislation.

(15) The feedingstuffs used in the manufacture of medicated feedingstuffs shall be subject to veterinary surveillance pursuant to a special legal regulation<sup>18)</sup>.

## **Part 2 Distribution**

### **Section 75**

#### **Basic provisions governing distribution**

- (1) Distributed may be medicinal products:
- a) authorised in compliance with this Act;
  - b) not authorised in compliance with this Act, if:

1. they are authorised in compliance with the Community law by the competent authority of another Member State; these medicinal products, however, must not be marketed in the Czech Republic except for a supply to pharmacies which are holders of a certificate for mail-order dispensing abroad,
2. their distribution is permissible pursuant to Section 49 within the scope of therapeutic programmes or pursuant to Section 8, paragraph 6,
3. their prescribing or use is permissible pursuant to Section 8, paragraphs 3 to 5, if conditions stipulated by Section 77, paragraph 1 (i) are observed, or
4. their use in the delivery of veterinary care has been authorised pursuant to Sections 46 to 48, and restrictions established by competent authorities are observed.

(2) A distributor may, via other distributors where applicable, supply medicinal products where medicinal products referred to in paragraph 1 (b), items 2 to 4 are concerned, to operators authorised in compliance with Section 82, paragraph 2 to dispense medicinal products. A distributor may, furthermore, supply medicinal products, where medicinal products referred to in paragraph 1 (b) item 3 are concerned, to operators authorised to use medicinal products in the delivery of health care and, where medicinal products referred to in paragraph 1 (b) item 4 are concerned, to veterinarians authorised to perform expert veterinarian activities pursuant to a legal regulation<sup>18)</sup>. The implementing legal regulation stipulates the method to ensure good distribution practice for parallel import, therapeutic programmes and other cases of distribution of non-authorised medicinal products and distribution of promotional samples of medicinal products as well as the method of providing medicinal products for the purposes of humanitarian aid.

(3) Medicinal products may be distributed by persons authorised to conduct this activity by the Institute or the Veterinary Institute (hereinafter referred to as "distribution authorisation"). Operators authorised to dispense medicinal products may distribute them only if they have obtained a distribution authorisation.

(4) A holder of a distribution authorisation granted by a competent authority of another Member State shall have within the territory of the Czech Republic the same rights and obligations as a distributor referred to in paragraph 3. Such distributor shall be obliged to give prior notice of the commencement of distribution in the Czech Republic to the Institute or the Veterinary Institute to evidence the distribution authorisation granted by the other Member State, provide data necessary for co-operation therewith, and other information regarding the scope of distribution and location of distribution stores. Where such distribution authorisation holder establishes distribution stores in the Czech Republic for the purposes of distribution within the Czech Republic, or commissions part of the distribution consisting of storing in the Czech Republic with another person who is not a distributor, he or she shall be obliged to obtain beforehand a distribution authorisation from the Institute or the Veterinary Institute.

(5) A manufacturer of medicinal products shall be authorised to engage in the activities of a distributor compliant to the conditions stipulated by this Act where medicinal products manufactured or imported thereby from third countries are concerned. This authorisation shall also apply to the holders of manufacturing authorisation granted by the competent authority of a Member State and conditions stipulated by paragraph 4 shall likewise apply thereto.

(6) A distribution authorisation shall include a statement of all sites where the distribution of medicinal products may be carried out; it may also include a specification of terms under which distribution may be carried out, including the scope thereof. A distribution



authorisation shall not imply an authorisation to engage in a manufacturing operation in the sphere of medicinal products, unless a manufacturing authorisation has been granted for the activity in question.

(7) A distribution authorisation shall not imply an authorisation to engage in the import of medicinal products from third countries unless a manufacturing authorisation has been granted in respect of such import.

(8) At the request of the Commission or a competent authority of a Member State, the Institute or the Veterinary Institute shall supply complete information concerning the individual distribution authorisations. If the Institute or the Veterinary Institute suspends the validity of a distribution authorisation or revokes a distribution authorisation, it shall forthwith inform the Commission and the competent authorities of other Member States to this effect.

(9) Should the Institute or the Veterinary Institute consider that, in respect of a person holding an authorisation granted by the competent authority of another Member State, the conditions of authorisation have not been, or are no longer met, it shall forthwith inform the Commission and the competent authority of the Member State to this effect.

(10) Should the Institute or the Veterinary Institute be informed by the Commission or by a competent authority of the Member State that in respect of a distributor, the conditions of distribution authorisation granted by the concerned institute have not been, or are no longer met, it shall adopt necessary measures in compliance with this Act and inform the Commission and the competent authority of the Member State of the measures taken and reasons therefor.

## **Section 76**

### **Authorisation to engage in distribution**

(1) A distribution authorisation shall be granted to an applicant who has met the following requirements:

- a) the applicant must have suitable and adequate premises, installations and equipment, so as to ensure proper storage and distribution of the medicinal products;
- b) the applicant has ensured the services of persons who comply with the conditions stipulated by this Act and services of a qualified person designated as responsible for compliance with this Act in respect of the distribution of medicinal products, and, where applicable, active substances and excipients within the scope of the distribution authorisation; a professional prerequisite for a qualified person shall be a completed accredited healthcare masters study programme in pharmacy pursuant to a special legal regulation<sup>31)</sup>, or in an accredited healthcare masters study programme in general medicine<sup>31)</sup> or dentistry<sup>31)</sup>, or in an accredited masters study programme in veterinary medicine or in an accredited masters study programme in veterinary hygiene and ecology or in the sphere of chemistry or biology;
- c) the applicant evidences his prerequisites to fulfil the obligations set forth in Section 77.

(2) The provisions of Section 63, paragraphs 1 to 5 and 7 shall apply to the distribution authorisation procedure accordingly, and the qualified persons shall be governed by the requirements set forth in paragraph 1 (b). The implementing legal regulation stipulates the scope of particulars to be contained in the application for distribution authorisation.

(3) A distributor shall be obliged to apply beforehand for a variation to the distribution authorisation with the Institute or the Veterinary Institute where he or she intends to make a

change to the conditions under which the distribution authorisation has been issued. The Institute or the Veterinary Institute shall suspend or revoke a distribution authorisation where the distributor fails to fulfil the conditions specified thereby or where the distributor has seriously breached the obligations stipulated by this Act. The Institute or the Veterinary Institute shall suspend a distribution authorisation in those cases where the information obtained is incomplete or such shortcomings have been identified which may be eliminated. The Institute or the Veterinary Institute shall revoke a distribution authorisation in those cases where the information obtained is complete or such shortcomings have been identified which cannot be eliminated. The Institute or the Veterinary Institute shall also revoke a distribution authorisation upon the request of the person to whom it has been granted.

(4) If the distributor fails to engage in distribution activities for the period of at least three years of legally coming into force of the distribution authorisation, the distribution authorisation shall be considered void.

## **Section 77**

### **Rights and obligations of a distributor**

(1) A distributor shall be obliged to:

- a) make the premises, installations, and equipment used for the distribution accessible to the staff of authorities entitled to conduct controls;
- b) obtain its supplies of medicinal products only from other distributors or from manufacturers in respect of medicinal products manufactured or imported thereby; the return of medicinal products by a pharmacy to a distributor shall not be prejudiced by this provision;
- c) distribute medicinal products only to:
  1. persons who are distributors,
  2. persons who are authorised to dispense medicinal products or sell selected medicinal products,
  3. persons providing health care where gases used in the delivery of health care or infusion solutions are concerned,
  4. healthcare facilities referred to in Section 82, paragraph 2 (f), where radiopharmaceuticals are concerned,
  5. facilities referred to in Section 82, paragraph 2 (c), where immunological products are concerned,
  6. veterinarians authorised to engage in specialised veterinary activities as per a special legal regulation<sup>18)</sup>, where medicinal products intended for the treatment of animals are concerned,
  7. breeders where disinfectants and disinsectants listed by the Veterinary Institute are concerned,
  8. breeders keeping animals for slaughter and food-producing animals, on the basis of a prescription from the attending veterinarian authorised to carry out specialised veterinary activities pursuant to a special legal regulation<sup>18)</sup>, where authorised veterinary medicinal products are concerned,
  9. marketing authorisation holders where promotional samples of medicinal products are concerned; handling of promotional samples shall be subjected to a special legal regulation<sup>51)</sup>,
  10. sales representatives assigned by the marketing authorisation holder where promotional samples of medicinal products authorised for this holder are concerned,
  11. manufacturers of medicated feedingstuffs where medicated pre-mixes are concerned, or
  12. blood centres or blood banks where transfusion products are concerned and if such distribution of transfusion products is commissioned to blood centres pursuant to Section 67, paragraph 3,

13. medical doctors, but only immunological products for the purposes of vaccination;

d) have an effective system ensuring a recall of a medicinal product from the market; within the scope of this system the distributor shall be obliged to forthwith forward information about defects of medicinal products or adverse reactions thereto to all persons supplied by the distributor, including vendors of selected medicinal products supplied thereby with the product concerned and to cooperate with the manufacturer of the concerned medicinal product and with the marketing authorisation holder;

e) keep records which must be made available to the competent authorities for control purposes for the period of five years; the implementing legal regulation stipulates the method and scope of keeping such records;

f) ensure that records of deliveries of authorised medicinal products are kept using the codes thereof; these records shall be kept for the period of five years; the distributor shall regularly report to the Institute data concerning the volume of medicinal products distributed thereby to pharmacies and other healthcare facilities, to vendors of selected pharmaceuticals and to veterinarians and concerning the volume of promotional samples supplied thereby to marketing authorisation holders or to sales representatives, and to the Veterinary Institute data concerning the volume of medicinal products distributed thereby to pharmacies, veterinarians, breeders, and manufacturers of medicated feedingstuffs; the scope of particulars and the method of their provision by means of a report shall be published by the Institute or the Veterinary Institute in its information media;

g) comply with the principles of good distribution practice, including requirements in respect of staff, premises, technical equipment, documentation, and system of recalls of medicinal products from the market and proceed in compliance with Commission and Agency guidance; the specification guidance of the Institute and the Veterinary Institute shall be observed in distribution; the implementing legal regulation stipulates the rules of good distribution practice;

h) ensure supplies of human medicinal products distributed thereby to operators authorised to dispense medicinal products in quantities and time intervals adequate to the needs of patients in the Czech Republic; the implementing legal regulation stipulates the requirements for the quantities and time intervals and, if applicable, their interrelations in the supplies of medicinal products covering the needs of patients;

i) where a medicinal product which is not authorised in any of the Member States or in the Community is imported from a third country in compliance with Section 8, paragraphs 3 to 5, realise the import only after the Institute issues its approval of this import upon request; this, however, shall not apply if the import of such medicinal product has been approved within the scope of a therapeutic programme or if realised in compliance with Section 8, paragraph 6; the Institute shall not issue its approval if the available information about the safety, efficacy and quality of the medicinal product do not evidence a sufficiently positive risk – benefit ratio of the medicinal product; the request must contain data about the applicant, the medicinal product and its distributor and the concerned healthcare facility; the implementing legal regulation stipulates the scope of these particulars; where import referred to in this letter is concerned, the provisions of Section 66, paragraph 1 (b) and Section 75, paragraph 7 shall not be applied.

(2) A distributor shall be entitled to commission part of the distribution of medicinal products with another person; this shall be without prejudice to the distributor's liability. In the contract the distributor shall stipulate his or her right to inspect this person's compliance with good distribution practice.

(3) Each supply of a medicinal product to persons authorised to dispense medicinal products or sell selected medicinal products must be accompanied by documentation which shall allow for the tracking of the distribution path of the medicinal product. This documentation shall contain data about the medicinal product, the person supplying or taking the medicinal product and time details of the distribution within the scope stipulated by the implementing legal regulation.

(4) A distributor shall be obliged to apply with the Institute or the Veterinary Institute for extending the scope of a distribution authorisation prior to the commencement of the distribution of an active substance or excipient to persons authorised to prepare medicinal products, or of gases used in the delivery of health care to persons authorised to use these in the delivery of health care or of human blood and its components. The Institute or the Veterinary Institute shall authorise the extension of the scope of distribution authorisation after verification of compliance with the conditions stipulated by this Act.

(5) A distributor who is in possession of an authorisation including distribution of active substances and excipients shall be, apart from the obligations of a distributor referred to in paragraphs 1 to 3, obliged, furthermore, to:

a) supply persons authorised to prepare medicinal products only with such active substances and excipients whose quality has been verified:

1. by a control laboratory whose scope of activities includes the control of active substances and excipients,

2. by a manufacturer whose scope of activities includes control activities in respect of active substances and excipients,

3. by a manufacturer of raw materials who is in possession of a valid certificate of good manufacturing practice in the manufacture of raw materials, or

4. within the framework of the Community by ways at least equivalent to the requirements governing the verification of the quality of active substances and excipients referred to in items 1 to 3;

the Institute or the Veterinary Institute shall assign the persons referred to in items 1 to 3 with a reference number which has to be presented by these persons on the certificates issued thereby to evidence the quality of active substances and excipients; the implementing legal regulation stipulates the scope and method of verification referred to in item 4;

b) supply active substances and excipients to persons authorised to prepare medicinal products in a manner stipulated by the implementing legal regulation;

c) supply active substances and excipients whose prescribing, dispensing and use in the delivery of veterinary care is authorised in compliance with Section 9, paragraph 1 (h), to veterinarians authorised to carry out specialised veterinary activities pursuant to a special legal regulation<sup>18)</sup>;

d) have an effective system to ensure a recall of an active substance or an excipient from the market pursuant to paragraph 1 (d) likewise.

(6) On the basis of an application submitted to the Veterinary Institute, the scope of distribution authorisation may be further extended also by the distribution of medicated feedingstuffs. The distributor in possession of an authorisation including the distribution of medicated feedingstuffs shall be, apart from the obligations of a distributor stipulated in paragraph 1 (a), (e) and (g), moreover, obliged to comply with the conditions governing the placement of medicated feedingstuffs onto the market as referred to in Sections 73 and 74.

## **Section 78**

(1) Substances that have anabolic, anti-infectious, anti-parasitic, anti-inflammatory or hormonal properties or addictive substances or precursors and which may be used in the manufacture of veterinary medicinal products may be kept only by those persons who use these substances for activities for which they are authorised to handle such substances pursuant to this Act or pursuant to special legal regulations<sup>69)</sup>.

(2) Natural or legal persons who manufacture, import, export, purchase, sell, process, transport, treat the substances referred to in paragraph 1 or perform other commercial operations therewith, unless activities authorised pursuant to this Act are concerned, regardless of whether these activities are performed with the purpose to generate profit or free of charge, shall be obliged to file a notification with the Veterinary Institute no later than as of the start date of their operation.

(3) The notification must contain data about the notifying person, site(s) of operation regarding the activities referred to in paragraph 2, the substance(s), and, furthermore, justification of the operation pursuant to paragraph 2. The implementing legal regulation stipulates the scope of particulars of the notification.

(4) Persons referred to in paragraph 2 shall be obliged to maintain and keep for the period of at least three years records of all business transactions with the substances referred to in paragraph 1. These records shall contain data about the supplier, customer, substance which is subject of the relevant business transaction, time details and data about any potential treatment of the substance, if applicable. The implementing legal regulation stipulates the scope of records.

(5) Persons referred to in paragraph 2 shall be obliged to allow the staff of the Veterinary Institute authorised therefor to carry out inspections the performance of inspections and to co-operate therewith in an extent necessary for the completion of an inspection in the scope established by the Veterinary Institute, including admittance to premises, access to installations, equipment or documentation relevant to the handling of substances referred to in paragraph 2.

(6) Supervision over the handling of substances pursuant to paragraph 2 shall be methodologically co-ordinated by the Veterinary Institute. In these activities, the Veterinary Institute shall co-operate with other state administration authorities, particularly with the Institute and customs administration authorities; the competent state administration authorities shall be obliged to co-operate with the Veterinary Institute in the necessary extent.

<sup>69)</sup> E.g. Act No 120/2002 Coll., on the Terms of Placing Biocides and Active Substances on the Market and on Amendments to Some Related Acts, as amended, Act No 167/1998 Coll., as amended, Act No 326/2004 Coll., on Phytosanitary Care and Amendments to Some Related Acts, as amended, Act No 166/1999 Coll., as amended, and Act No 91/1996 Coll., as amended

### **Part 3**

#### **Preparation and treatment of medicinal products**

##### **Section 79**

(1) Medicinal products may be prepared only:

a) on the basis of a medical prescription for an individual patient;  
b) in compliance with the Czech Pharmacopoeia; or  
c) on the basis of a technological prescription prepared by a person authorised for the preparation, if there is no monograph covering the medicinal product in the Czech Pharmacopoeia; the implementing legal regulation stipulates the content and method of processing of the technological prescription.

(2) Medicinal products may only be prepared by:

a) a pharmacy;  
b) a nuclear medicine workplace of a healthcare facility, where radiopharmaceuticals are concerned; or  
c) an immunological or microbiological workplace of a healthcare facility or a healthcare facility operating pursuant to a special legal regulation<sup>70)</sup>, where human autogenic vaccines are concerned.

The implementing legal regulation stipulates the scope and method of preparation at individual healthcare workplaces, including good pharmacy practice.

(3) The operator of a healthcare facility preparing medicinal products pursuant to paragraph 2 shall be obliged to ensure the quality of prepared medicinal products and in its operation observe the rules of good pharmacy practice; the operator shall, furthermore, proceed in accordance with detailed guidance of the Institute published in its information media.

(4) A legal or natural person operating a pharmacy (hereinafter referred to as an “operator of a pharmacy”) shall be obliged to notify the Institute of the commencement or termination of its operation within the period of 15 days. An operator of a healthcare facility referred to in paragraph 2 (b) and (c) shall be obliged to notify the Institute in the same manner of the commencement and termination of its operation in terms of preparation of medicinal products. As part of supervision, the Institute shall be entitled to prohibit the preparation of medicinal products based on technological prescriptions which do not ensure the quality, efficacy, and safety of the medicinal products prepared.

(5) A professional prerequisite for handling pharmaceuticals, if conducted in pharmacies, shall be a competence to carry out the healthcare profession of a pharmacist or pharmaceutical assistant pursuant to special legal regulations<sup>29)</sup>.

(6) An operator of a pharmacy must establish at least one person with a degree in an accredited healthcare masters study programme in the sphere of pharmacy and with specialised competence<sup>31)</sup> (hereinafter referred to as the “chief pharmacist”) responsible for ensuring compliance of the operation of the pharmacy with this Act and for ensuring that the technological processes employed in preparation ensure quality, efficacy, and safety of the medicinal products prepared. A chief pharmacist may also be the operator of the pharmacy, if he or she complies with the qualification requirements stipulated in sentence one; where the operator of a pharmacy is, pursuant to a special legal regulation<sup>71)</sup>, obliged to delegate his or her expert deputy, he or she shall be also considered the chief pharmacist. The chief pharmacist or a pharmacist delegated thereby must be present at all times during the operation of a pharmacy.

(7) The operator of a healthcare facility referred to in paragraph 2 (b) and (c) which prepares medicinal products must establish at least one person responsible for ensuring compliance of the operation of the healthcare facility concerned in respect of preparation and handling of

pharmaceuticals with this Act, to ensure that the technological processes employed in the preparation safeguard the quality, efficacy, and safety of the medicinal products prepared and that the preparation, dispensing and further handling of pharmaceuticals are carried out only by persons with adequate qualifications<sup>29)</sup>. A professional prerequisite for this responsible person shall be a competence to carry out the healthcare profession of a pharmacist<sup>31)</sup> or medical doctor<sup>31)</sup> or a university degree in the sphere of chemistry or biology and specialised competence in the relevant sphere of operation and three years of professional practice in the discipline concerned.

(8) For the preparation of medicinal products, only the following may be used:

- a) active substances and excipients listed in the Czech Pharmacopoeia or placed on the list established by the implementing legal regulation or the use of which has been authorised by the Ministry of Health pursuant to Section 11 (b) or by the State Veterinary Administration pursuant to Section 15 (d); the method of evidencing the quality of active substances and excipients is stipulated by the implementing legal regulation;
- b) pathogens or antigens collected from individual patients where the preparation of human autogenic vaccines is concerned;
- c) authorised medicinal products, if this method of use is specified in the approved summary of the product characteristics or if established by the implementing legal regulation.

(9) Prepared medicinal products or active substances and excipients intended for the preparation of medicinal products, where applicable, may be also obtained by a pharmacy from another pharmacy. The decision issued pursuant to a special legal regulation<sup>71)</sup> to the pharmacy which prepares medicinal products or controls active substances and excipients, however, must explicitly identify the scope of preparation, control and the pharmacy supplied.

(10) The treatment of medicinal products pursuant to Section 5, paragraph 4 may be conducted in compliance with the conditions stipulated by special legal regulations<sup>72)</sup> and provisions of Section 23 by healthcare professionals in the delivery of health care. The implementing legal regulation stipulates the method of appointing the pharmacist, the scope of procedures considered to be treatment and a definition of technological conditions of the treatment for special groups of medicinal products. The implementing legal regulation, furthermore, stipulates the method of handling of medicinal products obtained by a healthcare facility, particularly their storage and record-keeping.

<sup>70)</sup> Act No 258/2000 Coll., as amended.

<sup>71)</sup> Section 10, paragraph 2 (b) and Section 11, paragraph 1 of Act No 160/1992 Coll., as amended by Act No 121/2004 Coll.

<sup>72)</sup> E.g. the Labour Code, Act No 78/2004 Coll., as amended by Act No 346/2005 Coll., Act No 166/1999 Coll., as amended.

## **Prescribing, dispensing of medicinal products and disposal of pharmaceuticals**

### **Part 1**

#### **Prescribing of medicinal products**

#### **Section 80**

Medicinal products shall be prescribed by doctors delivering medical care within the scope of their specialty and veterinarians by issuing a prescription which may be, after an agreement with the patient, in a hard copy or electronic format. Where a medical prescription in electronic format is concerned (hereinafter referred to as “electronic prescription”), the prescribing doctor shall be obliged to send it pursuant to Section 81 to the central repository of electronic prescriptions which will immediately return an identification code allocated to the sent electronic prescription. This identification code, on the basis of which the prescribed medicinal product shall be dispensed in the pharmacy, must be communicated by the doctor to the patient. The implementing legal regulation stipulates the method of prescribing of medicinal products, particulars to be shown on the medical prescription and rules governing the use of medical prescriptions. Furthermore, the implementing legal regulation stipulates the procedure and conditions for the communication of the prescribing doctors and pharmacists dispensing prescribed medicinal products with the central repository of electronic prescriptions, the method of generation of identification codes provided by the central repository of electronic prescriptions to the prescribing doctors, the method of sending of electronic prescriptions by prescribing doctors and the method of logging of electronic prescriptions, including the logging of electronic prescriptions for which medicinal products have already been dispensed.

## **Section 81**

### **Central repository of electronic prescriptions**

The central repository of electronic prescriptions shall be established by the Institute as its organisational part to ensure the fulfilment of the following tasks:

- a) to accept and collect electronic prescriptions sent by prescribing doctors;
- b) to notify the doctor immediately after the receipt of the electronic prescription of the identification code for the prescription on the basis of which the prescribed medicinal products will be dispensed in the pharmacy;
- c) to provide free-of-charge access to the electronic prescription on the basis of which the medicinal products is to be dispensed to the pharmacist dispensing medicinal products in the concerned pharmacy immediately after the receipt of his or her request;
- d) to ensure a continuous, free-of-charge access to the database of electronic prescriptions for prescribing doctors and pharmacists dispensing prescribed medicinal products in pharmacies;
- e) to ensure that electronic prescriptions in the database of stored electronic prescriptions are safe and protected from damage, abuse or loss pursuant to a special legal regulation<sup>36</sup>;
- f) to ensure the protection and handover of data in the case of terminating operation;
- g) to immediately label the electronic prescription made available pursuant to letter (c) and issued pursuant to Section 82.

## **Part 2**

### **Dispensing of medicinal products and sale of selected medicinal products**

## **Section 82**

### **General principles**

(1) Medicinal products shall be dispensed on medical prescription which may be in the form of a hard-copy or electronic prescription, or on medical prescription issued in any of the Member States unless stipulated otherwise in the marketing authorisation. In the case of dispensing on electronic prescription the dispensing pharmacist must immediately notify the central repository of electronic prescriptions that the prescribed medicinal product has already



been dispensed. The implementing legal regulation stipulates the method of verification of the medical prescription, the record-keeping for dispensing, provision of information about dispensed medicinal products and the method of dispensing.

(2) Medicinal products may be dispensed in pharmacies and facilities referred to in letters (c) to (g) by persons specified in letters (a) to (g). It concerns the following persons:

- a) pharmacists in pharmacies;
  - b) pharmaceutical assistants<sup>33)</sup> in pharmacies; this applies only to medicinal products whose dispensing is not subject to medical prescription;
  - c) the employees of public health protection authorities with professional qualification to engage in the healthcare profession of a doctor, other healthcare professionals and other expert staff with professional qualifications to engage in a healthcare profession<sup>73)</sup>; this applies only to immunological products intended for vaccination;
  - d) doctors, pharmacists or other healthcare professionals of a blood centre authorised to conduct this activity; this applies only to blood derivatives; the implementing legal regulation stipulates the scope and method of dispensing of blood derivatives;
  - e) doctors, pharmacists or other healthcare professionals of a blood centre and a blood bank authorised to conduct this activity; this applies only to transfusion products; the implementing legal regulation stipulates the scope and method of dispensing of transfusion products;
  - f) doctors, pharmacists or other healthcare professionals of a nuclear medicine workplace of a healthcare facility who have been authorised by the responsible person pursuant to Section 79, paragraph 7; this applies only to radiopharmaceuticals prepared pursuant to Section 79, paragraph 2 (b) at this workplace; or
  - g) doctors, pharmacists or other healthcare professionals of an immunology or microbiology workplace of a healthcare facility or a public health protection facility who have been authorised by the responsible person pursuant to Section 79, paragraph 7; this applies only to human autogenic vaccines prepared pursuant to Section 79, paragraph 2 (c) at this workplace.
- Medicinal products may be, furthermore, dispensed by veterinarians authorised to engage in professional veterinary activities pursuant to a special legal regulation<sup>18)</sup>; this applies to medicinal products intended for the treatment of animals. This provision shall be without prejudice to the use of medicinal products in the delivery of health care and veterinary care pursuant to Section 5, paragraph 8.

(3) Operators authorised for dispensing pursuant to paragraph 2:

- a) shall ensure that the quality of medicinal products is not compromised and that the handling of medicinal products complies with the conditions established in their respective marketing authorisations;
- b) shall obtain medicinal products subject to marketing authorisation pursuant to Section 25 only from the manufacturer where medicinal products manufactured thereby are concerned, from a distributor or from a pharmacy; for pharmacies the implementing legal regulation stipulates the scope and method of obtaining from another pharmacy;
- c) must not, with the exception of treatment and preparation of medicinal products or dispensing for a healthcare facility, compromise the integrity of packaging of a medicinal product subject to marketing authorisation pursuant to Section 25;
- d) shall be obliged to ensure, in the dispensing of medicinal products referred to in Section 75, paragraph 1 (a) and (b) that records about dispensing are kept using the codes and to keep these records for the period of five years; furthermore, they shall be obliged to provide to the Institute data about dispensed medicinal products; the Institute shall publish the scope of data and the method of their provision by means of reports in its information media;

e) shall keep itemised records of the stock, receipt and dispensing of medicinal products referred to in Section 75, paragraph 1 (a) and (b) allowing for the identification of the pharmaceutical form, quantity of the active substance contained in a unit of weight, volume or pharmaceutical form, type of packaging, and pack size of the medicinal product, including the code of the medicinal product, and shall store these records for the period of five years.

(4) If a pharmacy dispenses medicinal products to other pharmacies or inpatient healthcare facilities, the pharmacies or facilities taking medicinal products must be specified in a decision issued for the pharmacy pursuant to a special legal regulation<sup>71)</sup>. Provision of medicinal products to another pharmacy is restricted to medicinal products prepared in the concerned pharmacy; other medicinal products may be provided to another pharmacy only under exceptional circumstances and in necessary quantities; the implementing legal regulation stipulates the scope and method of such provision.

(5) Medicinal products prepared at a nuclear medicine workplace of a healthcare facility and human autogenic vaccines prepared at an immunology or microbiology workplace of a healthcare facility shall be dispensed only for healthcare facilities.

(6) Selected medicinal products may be sold only by competent vendors of selected medicinal products operating in compliance with a special legal regulation<sup>74)</sup>. They may obtain selected medicinal products only from a manufacturer where products manufactured thereby are concerned, or from a distributor and they may store them for the purposes of sale under the conditions established by the manufacturer of the medicinal products.

(7) Operators dispensing medicinal products pursuant to paragraph 2 shall be obliged to provide information about correct use and storage of the medicinal product; persons referred to in paragraph 6 shall fulfil this obligation by the sale of a medicinal product containing a package leaflet.

<sup>73)</sup> Section 88a of Act No 258/2000 Coll., as amended by Act No 320/2002 Coll.

<sup>74)</sup> Act No 455/1991 Coll., as amended.

## **Section 83**

### **Dispensing of medicinal products in a pharmacy**

(1) An operator authorised to dispense medicinal products shall dispense a medicinal product prescribed by a doctor or the requested medicinal product which is not subject to medical prescription; the implementing legal regulation stipulates the record-keeping of dispensing, the provision of information about dispensed medicinal products and method of dispensing.

(2) If the prescribing doctor indicates on the medical prescription that he or she insists on the dispensing of the specifically prescribed medicinal product, the operator authorised to dispense medicinal products in compliance with Section 82, paragraph 2 may dispense only the specifically prescribed medicinal product. In other cases he or she shall inform the patient about alternative options for the dispensed medicinal product and may, with the consent of the patient, replace the prescribed medicinal product with another one which is identical in terms of its efficacy and safety, contains the same active substance with the same route of administration and the same pharmaceutical form. Replacement of a medicinal product for the purposes of its reimbursement may be stipulated by the act on public health insurance. The

implementing legal regulation stipulates the method of dispensing and indicating the possibility for replacing the medicinal product with another one on the medical prescription.

(3) Where the pharmacist does not have the medicinal product prescribed by the doctor at his or her disposal and its immediate dispensing is necessary, he or she shall dispense another medicinal product of adequate therapeutic properties which is available. The implementing legal regulation stipulates the cases where immediate dispensing is necessary and the scope of replacement of the prescribed medicinal product.

(4) Where doubts arise in respect of credibility of the medical prescription, the medicinal product may not be dispensed; and if these doubts cannot be eliminated after verification with the prescribing medical doctor either, the matter must be referred to the Police of the Czech Republic without unnecessary delay. A medicinal product subject to medical prescription may be dispensed also to a person other than the one for whom it has been prescribed. Where, however, the pharmacist is in doubt as to whether the person to whom he or she dispenses the product is able to guarantee proper use of the medicinal product or may possibly abuse it, the pharmacist shall not dispense the medicinal product. A pharmacist or a pharmaceutical assistant shall not dispense a medicinal product not subject to medical prescription in the event of suspected abuse of the medicinal product concerned, either.

(5) An operator of a pharmacy shall be, moreover, obliged to:

- a) ensure in the dispensing of a medicinal product prescribed by a doctor that the dispensing of each medicinal product referred to in Section 75, paragraph 1 (a) and (b) is documented using a code allocated to the medicinal product by the Institute or the Veterinary Institute or if no code has been allocated to a medicinal product, using another unique identification mark;
- b) comply with the principles of good pharmacy practice stipulated by the implementing legal regulation in the dispensing of medicinal products and record-keeping;
- c) having received an order for mail-order dispensing where applicable, forthwith inform the ordering party of the fact that the medicinal product may not be delivered via mail order, unless a pharmacy engaged in mail-order dispensing is concerned.

## **Section 84**

### **General principles governing mail-order dispensing**

(1) A mail-order dispensing of medicinal products (hereinafter referred to as “mail-order dispensing”) shall mean the dispensing of medicinal products on the basis of orders employing mail-order method. Offering medicinal products for the purposes of their mail-order dispensing and receiving of orders from persons (hereinafter referred to as the “ordering party”) for the realisation of mail-order dispensing shall be considered part of the mail-order dispensing.

(2) Mail-order dispensing, including abroad, may be conducted only by an operator of a pharmacy<sup>9)</sup> (hereinafter referred to as a “pharmacy engaged in mail-order dispensing”).

(3) A pharmacy engaged in mail-order dispensing shall be obliged to notify the Institute of the commencement, suspension and termination of mail-order dispensing no later than within 15 days of the date when this situation has occurred. The implementing legal regulation stipulates the scope of data and method of notification.

## **Section 85**

## **Obligations of a pharmacy engaged in mail-order dispensing**

(1) The object of mail-order dispensing may only be medicinal products authorised in compliance with Section 25, paragraph 1, whose dispensing, according to the marketing authorisation, is not subject to medical prescription. The implementing legal regulation stipulates the method of ensuring mail-order dispensing.

(2) A pharmacy engaged in mail-order dispensing shall be obliged to:

a) publish information about mail-order dispensing, medicinal products on offer, their prices and costs associated with the mail-order dispensing; a mere publication of the offer shall not be considered advertising pursuant to a special legal regulation<sup>51)</sup>;

b) organise the packaging and transport of consignments containing medicinal products to be delivered to the ordering party in a manner safeguarding that the quality of medicinal products is maintained; a pharmacy engaged in mail-order dispensing shall be responsible for the quality of medicinal products, even where it contracts out the transport of medicinal products with another person;

c) ensure that consignments are sent to the ordering party no later than within 48 hours of the receipt of the order to ensure that they are delivered to the ordering party within the maximum of three days of the receipt of the order, or that the ordering party is notified within the maximum of three days of the receipt of the order that the consignment cannot be provided within this timeline;

d) safeguard an information service provided by a pharmacist or a pharmaceutical assistant within predefined hours of operation; this information service shall also serve for the purposes of ensuring the collection and handover of information on suspected adverse reactions to medicinal products notified thereto;

e) ensure the possibility to return queried medicinal products in a manner which will not incur any costs to the ordering party; medicinal products shall become unusable pharmaceuticals and their removal pursuant to Sections 88 and 89 must be organised.

## **Section 86**

### **Mail-order dispensing abroad**

(1) Medicinal products intended for supplies abroad may be labelled in the official language of the country where they are supplied to. The implementing legal regulation stipulates the method of handling medicinal products labelled in foreign languages as mentioned above, including details concerning their obtaining and storage. The implementing legal regulation furthermore stipulates the method of relabeling of medicinal products. Relabeling may be organised only by the manufacturer of medicinal products.

(2) Mail-order dispensing abroad shall be subject to the provisions of Sections 84 and 85 with the exception of the timelines governing the sending and supplying referred to in Section 85, paragraph 2 (c).

## **Section 87**

### **Mail-order dispensing into the Czech Republic**

(1) Mail-order dispensing into the Czech Republic may be organised only from the Member States.

Mail-order dispensing shall be permissible only for medicinal products:

a) authorised pursuant to Section 25, paragraph 1;

- b) authorised in the Member State from which the mail-order dispensing is conducted;
- c) the dispensing of which in the Czech Republic is not, pursuant to their marketing authorisation, subject to medical prescription; and
- d) supplied in compliance with the terms and conditions of marketing authorisation issued in the Czech Republic or with the terms and conditions of marketing authorisation pursuant to a directly applicable Community regulation<sup>24)</sup>; upon request of the individual patient, the medicinal product may be supplied in the quantity adequate to the patient's personal need with labelling and package leaflet in a language other than Czech.

(2) The provisions of Section 85, paragraph 2 (b) shall be applicable to the packaging of medicinal products referred to in paragraph 1.

(3) The person ensuring mail-order dispensing into the Czech Republic from the Member States shall be obliged to notify the Institute in advance of the commencement of the mail-order dispensing, to evidence his/her authority to dispense medicinal products to the public in another Member State and to provide data necessary for cooperation therewith.

### **Part 3**

#### **Disposal of pharmaceuticals**

#### **Section 88**

(1) Pharmaceuticals of inadequate quality, with expired shelf-life, stored or prepared under other than prescribed conditions, obviously damaged or unused (hereinafter referred to as “unusable pharmaceuticals”) must be disposed of, including their packaging, in a manner preventing any jeopardy to the life and health of people or animals or the environment.

(2) Handling of unusable pharmaceuticals is subject to the procedures applicable to hazardous waste management, including their documentation pursuant to a special legal regulation<sup>56)</sup>. Unusable transfusion products shall be disposed of as waste, the collection and disposal of which are governed by special requirements with regard to the prevention of infections<sup>75)</sup>.

(3) Disposal of unusable pharmaceuticals shall be performed by legal or natural persons on the basis of an approval granted by the regional authority of the delegated jurisdiction<sup>56)</sup> or, in the case of radiopharmaceuticals, by the State Office for Nuclear Safety. The authority which has granted the approval shall inform of the approval the Ministry of Health in the case of a human pharmaceutical or the Ministry of Agriculture in the case of a veterinary pharmaceutical. The information provided shall include also the name of the technical equipment for the disposal of unusable pharmaceuticals operated by the legal or natural person in question.

(4) Persons referred to in paragraph 3 shall be obliged to maintain and keep records of disposed-of unusable pharmaceuticals in compliance with special legal regulations<sup>75)</sup>.

<sup>75)</sup> Decree No 383/2001 Coll., as amended by Decree no 41/2005 Coll.  
Decree No 381/2001 Coll., on the Waste List, as amended by Decree No503/2004 Coll.

#### **Section 89**

(1) Operators shall be obliged to hand over unusable pharmaceuticals to the persons referred to in Section 88, paragraph 3.

(2) A pharmacy shall be obliged to accept unusable pharmaceuticals from natural persons. Costs incurred by the pharmacy in association with the hand-over of unusable pharmaceuticals to the persons referred to in Section 88, paragraph 3 and with the disposal of unusable pharmaceuticals conducted by the latter shall be covered by regional authorities in their delegated jurisdiction.

## **Title V PHARMACOVIGILANCE**

### **Pharmacovigilance of medicinal products for human use**

#### **Section 90**

(1) A medical doctor, a dentist or, where applicable, a pharmacist or other healthcare professional<sup>29)</sup> who has noticed a suspected serious or unexpected adverse reaction and other facts that might affect the health of the treated persons in association with the use of a medicinal product shall be obliged to:

a) forthwith report these facts to the Institute, even when the medicinal product has not been used in compliance with the summary of the products characteristics or when it has been abused;

b) cooperate in the verification of facts associated with suspected serious or unexpected adverse reaction and provide access to documentation to the Institute, including documentation containing personal data; the Institute shall handle the data in compliance with the conditions stipulated by special legal regulations<sup>60)</sup>.

(2) A doctor, dentist or, if applicable, a pharmacist or other healthcare professional<sup>29)</sup> handling medicinal products in the provision of health care shall be obliged, when using medicinal products, to observe the conditions of the risk management system approved by the Institute as part of the marketing authorisation of the concerned medicinal product or a variation thereto or approved as part of a procedure pursuant to a directly applicable Community regulation<sup>24)</sup>.

(3) In order to monitor the safety of medicinal products and to adopt decisions consistent with the actions of other Member States and of the Community, the Institute shall operate a pharmacovigilance system ensuring the collection of reports as well as other available information relevant to surveillance of medicinal products, in particular about adverse reactions to medicinal products under normal conditions of use, their scientific evaluation, and shall do so, if necessary, in cooperation with the competent authorities of the Member States. For the evaluation of reports the Institute shall avail of information obtained as per Section 77, paragraph 1 (f). Within the scope of this system, any available information about incorrect use and abuse of medicinal products, which may affect their risk-benefit assessment, shall be also taken into account. The Institute shall ensure the communication of the information collected within the pharmacovigilance system to other Member States and to the Agency in compliance with Commission and Agency guidance.

(4) Information about improper use or abuse of medicinal products which is available to state authorities other than the Institute shall be notified by the competent authorities to this Institute.

## **Section 91**

(1) The marketing authorisation holder shall have permanently and continuously at his or her disposal the services of a person responsible for pharmacovigilance holding a degree in an accredited masters study programme in general medicine or pharmacy<sup>31)</sup>, or a person with another adequate university qualification (hereinafter referred to as the “person responsible for pharmacovigilance”). The marketing authorisation holder must provide to this person any necessary authorisations and resources and forthwith any information relevant to the safety of medicinal products.

(2) The person responsible for pharmacovigilance must be residing or established<sup>21)</sup> within the territory of the Czech Republic or any of the Member States and shall be responsible to ensure the following:

- a) the development and maintenance of a system ensuring that information about any suspected adverse reactions notified to the employees of the marketing authorisation holder and to sales representatives are collected and evaluated in a manner allowing for access at least at one site within the Community;
- b) the preparation of reports referred to in Section 92, paragraph 7 for the Institute and for the competent authorities of the Member States; Commission and Agency guidance and the implementing legal regulation stipulate the scope of data to be provided in these reports;
- c) full and speedy response to the request of the Institute for the provision of additional information necessary for the assessment of risks and benefits of the medicinal product, including the provision of information about the volume of supplies or prescriptions of the concerned medicinal product; such information shall be provided also to the competent authorities of the Community and of the Member States;
- d) provision of other information relevant to the evaluation of the risks and benefits of the medicinal product to the Institute and to the competent authorities of the Community, where applicable, including relevant information on non-intervention safety studies.

(3) The marketing authorisation holder shall be obliged to forthwith inform the Institute about any change of the person responsible for pharmacovigilance.

## **Section 92**

(1) The marketing authorisation holder must maintain detailed records of all suspected adverse reactions occurring in the Community or in a third country and shall electronically forward the information in compliance with the guidance issued by the Commission and by the Agency. In exceptional and properly justified cases the Institute may, upon request of the marketing authorisation holder, approve the communication of such information by the marketing authorisation holder in a manner established by a guideline published in the information media of the Institute.

(2) The marketing authorisation holder must record and report to the Institute all suspected serious adverse reactions brought to his or her attention by the healthcare professionals in the Czech Republic, no later than 15 days following the receipt of the information.

(3) The marketing authorisation holder must record and report to the Institute all other suspected serious adverse reactions besides those referred to in paragraph 2, brought to his or her attention, if they meet the reporting criteria established by the Commission and Agency guidance and have occurred in the Czech Republic, no later than 15 days following the receipt of the information.

(4) The marketing authorisation holder shall ensure that all suspected serious unexpected adverse reactions and any suspected transmissions of infection agents by the medicinal product occurring in the territory of a third country are reported in accordance with Commission and Agency guidance so that they are available to the Agency and to the competent authorities of the Member States where the medicinal product is authorised, no later than 15 days following the receipt of the information.

(5) Suspicions referred to in paragraphs 2 to 4 shall be communicated electronically; under exceptional circumstances, when reporting cannot be conducted in this manner, Commission and Agency guidance shall be followed. When notifying a suspicion, internationally recognised medical terminology shall be used pursuant to Commission and Agency guidance.

(6) For medicinal products which have been authorised by the Member States on the basis of an opinion of the Committee issued before January 1 1995 in compliance with the Community regulation<sup>54)</sup> or to which mutual recognition procedures have been applied pursuant to Section 41, and medicinal products subjected to the review procedure<sup>53)</sup>, the marketing authorisation holder shall furthermore ensure that all suspected serious adverse effects occurring within the Community are reported in the format and within timelines agreed with the Reference Member State or with the competent authority representing the Reference Member State ensuring availability thereof to the Reference Member State. Where the reference Member State is the Czech Republic and the Institute acts as the competent authority of the Reference Member State, it shall furthermore analyse and monitor such adverse reactions.

(7) Unless the marketing authorisation stipulates other obligations as per Section 32, paragraph 3 or 4, the marketing authorisation holder shall submit to the Institute Periodic Safety Update Reports, either forthwith upon request or at least every six months following the marketing authorisation until the placing on the market. The Periodic Safety Update Reports shall be also submitted forthwith upon request or at least every six months, in the first two years following the initial placing on the market and once a year in the following two years. . Thereafter these reports shall be submitted at three-year intervals or forthwith upon request of the Institute. The Periodic Safety Update Reports shall contain a scientific evaluation of the risk-benefit ratio of the medicinal product. For the purposes of cooperation within the Community, the Institute may change the dates and periods of submission of these reports.

(8) The marketing authorisation holder shall submit the Periodic Safety Update Reports referred to in paragraph 7 also to the competent authorities of the Community and of the Member States in compliance with Commission and Agency guidance.

(9) After a marketing authorisation is issued, the holder thereof may request a change to the timelines referred to in paragraph 7 by means of an application for variation to marketing authorisation.



(10) The marketing authorisation holder must not disclose to the public any information concerning pharmacovigilance in respect of his authorised medicinal product without informing the Institute in advance or at the same time. The marketing authorisation holder must ensure that such information is provided in an unbiased manner.

(11) The marketing authorisation holder must keep the documentation pertaining to pharmacovigilance for the minimum period of ten years, except for the documentation specified under a special legal regulation<sup>63)</sup>. The implementing legal regulation stipulates the scope and method of maintaining and keeping records.

(12) The marketing authorisation holder shall be obliged to inform the Institute in advance of the commencement of a non-intervention study in the Czech Republic, and, furthermore, of its termination. The implementing legal regulation stipulates the scope and method of provision of information to the Institute.

### **Section 93**

(1) Reports of suspected serious adverse reactions occurring in the Czech Republic shall be provided by the Institute using the Community network for data processing to the Agency and to the competent authorities of other Member States no later than within 15 days of obtaining such report.

(2) The Institute shall ensure that reports of suspected serious adverse reactions occurring in the territory of the Czech Republic are provided to the marketing authorisation holder no later than within 15 days of obtaining such report.

(3) If the Institute, with a view to the evaluation of pharmacovigilance data, considers it necessary to suspend, revoke or vary the marketing authorisation, it shall forthwith inform the Agency, the competent authorities of other Member States and the holder of marketing authorisation. If it is necessary for the protection of public health to adopt an urgent measure, the Institute may suspend the marketing authorisation of the medicinal product and inform the Agency, the Commission and the competent authorities of other Member States to this effect no later than on the following working day. The Institute shall, furthermore, adopt temporary measures if required by the Commission.

(4) The Institute shall prohibit the dispensing of a medicinal product or its use or shall order a recall of the medicinal product from the market, if:

- a) it is evidenced that the medicinal product is harmful under normal conditions of use;
- b) the medicinal product lacks therapeutic efficacy;
- c) the risk-benefit ratio of the medicinal product is unfavourable when the product is used under the conditions specified in the marketing authorisation;
- d) the qualitative and quantitative composition of the medicinal product does not correspond to the declared one;
- e) controls of the finished medicinal product or its components and intermediate product in-process controls have not been performed; or
- f) an obligation implied by the manufacturing authorisation has been breached.

Repeal from the decision to prohibit the dispensing or use of a medicinal product or from an order to recall the medicinal product from the market shall have no suspensive effect.

### **Pharmacovigilance of veterinary medicinal products**

## Section 94

(1) A veterinarian shall forthwith report to the marketing authorisation holder of the medicinal product or to the Veterinary Institute the occurrence of a serious adverse reaction to a medicinal product, unexpected adverse reaction to a medicinal product or a human adverse reaction occurring in association with this medicinal product, even when the veterinary medicinal product has not been used in accordance with the summary of the product characteristics or has been used incorrectly or abused. In the event of a serious breach of this obligation the Veterinary Institute may decide, in respect of the concerned veterinarian, on the suspension of prescribing, dispensing, and use of medicinal products in the delivery of veterinary care. The Veterinary Institute shall inform the operator about such measure. The Veterinary Institute shall forward the decision to the Veterinary Chamber<sup>76)</sup>, which shall consider the case in compliance with its internal regulations. The Veterinary Chamber shall inform the Veterinary Institute about the results of its consideration. The Veterinary Institute shall revoke the decision about the suspension of prescribing, dispensing, and use of medicinal products in the delivery of veterinary care immediately after the receipt of the result of the consideration of the matter from the Veterinary Chamber.

(2) In order to adopt decisions consistent with the measures adopted in the Community, the Veterinary Institute shall operate a pharmacovigilance system to collect information relevant to the monitoring of the properties of medicinal products and adverse reactions thereto occurring in association with the medicinal products in animals and in man, and to their expert evaluation.

(3) The evaluation referred to in paragraph 2 shall be conducted by the Veterinary Institute with regard to the data about the quantities of the medicinal product placed on the market.

(4) The veterinary Institute shall ensure communication of information referred to in paragraph 2 to other Member States and to the Agency as well as their recording in the database established pursuant to a directly applicable Community regulation<sup>24)</sup> in compliance with Commission and Agency guidance.

(5) The pharmacovigilance system referred to in paragraph 2 must, furthermore, take into account information about other aspects of adverse reactions to medicinal products which may influence their evaluation in terms of benefits and risks, particularly information about:

- a) inadequate efficacy of medicinal products;
- b) off-label use of medicinal products;
- c) adequacy of withdrawal periods of medicinal products;
- d) possible risks implied by medicinal products for the environment.

(6) Information referred to in paragraphs 2 and 5 shall be evaluated by the Veterinary Institute in compliance with the rules and requirements drawn thereby in compliance with the rules and requirements effective in the Community and published by the Veterinary Institute in its information media.

<sup>76)</sup> Act No 381/1991 Coll., on the Veterinary Chamber, as amended.

## Section 95

(1) The marketing authorisation holder must have permanently and continuously at his or her disposal the services of a person holding a degree in an accredited masters study programme in veterinary medicine<sup>19)</sup> or in an accredited masters study programme in veterinary hygiene and ecology or in an accredited masters study programme in pharmacy<sup>31)</sup>, or of a person with other adequate qualifications, where applicable. The marketing authorisation holder must provide to this person any necessary authorisations and resources and forthwith any information relevant to the safety of medicinal products.

(2) The person responsible for pharmacovigilance referred to in paragraph 1 must reside or be established<sup>21)</sup> in the Community and must fulfil the obligations in the sphere of pharmacovigilance pursuant to Section 91, paragraph 2 likewise.

(3) The marketing authorisation holder shall be obliged to forthwith inform the Veterinary Institute about any change of the person responsible for pharmacovigilance referred to in paragraph 1.

## **Section 96**

(1) The marketing authorisation holder must maintain detailed records of all suspected adverse reactions occurring in the Community or in a third country and associated with the medicinal product and shall electronically forward the information in compliance with the guidance compiled by the Commission and by the Agency. In exceptional cases the Veterinary Institute may, upon request of the marketing authorisation holder, approve the communication of such information by the marketing authorisation holder in another manner.

(2) The marketing authorisation holder shall be obliged to record and report to the Veterinary Institute within the period of 15 days all cases of suspected serious adverse reactions and human adverse reactions associated with the medicinal product occurring in the Czech Republic brought to his or her attention or for which it may be expected that they should have been brought to his or her attention.

(3) The marketing authorisation holder shall be obliged to report all cases of suspected serious unexpected adverse reactions and human adverse reactions associated with the medicinal product and, furthermore, suspected transmission of any infection agent by the medicinal product referred to in Section 92, paragraph 4 likewise.

(4) For medicinal products which have been authorised by the Member States on the basis of an opinion of the Veterinary Committee issued before January 1 1995 in compliance with the Community regulation<sup>54)</sup> or to which mutual recognition procedures have been applied pursuant to Section 41, and medicinal products subjected to the review procedure<sup>53)</sup>, the provisions of Section 92, paragraph 6 shall likewise apply to the reporting of suspected adverse reactions.

(5) Unless stipulated otherwise by the marketing authorisation of the medicinal product, the marketing authorisation holder submits to the Veterinary Institute Periodic Safety Update Reports containing records pursuant to paragraphs 1 to 4:

a) forthwith upon request of this institute; or

b) in periodic intervals as follows:

1. every six months following marketing authorisation until the medicinal product is first placed on the market in the Czech Republic,

2. following the initial placing of the medicinal product on the market in the Czech Republic, every six months for the period of the first two years; once a year for the period of the following two years; and thereafter at three-year intervals;

The Periodic Safety Update Reports must contain an expert evaluation of the risks and benefits of the medicinal product.

(6) The marketing authorisation holder shall submit the Periodic Safety Update Reports referred to in paragraph 5 pursuant to Section 92, paragraph 8 likewise.

(7) Following the issue of the marketing authorisation the marketing authorisation holder may apply for a change to the intervals of submission of the Periodic Safety Update Reports referred to in paragraph 5.

(8) The marketing authorisation holder must not disclose to the public any information concerning pharmacovigilance in respect of his authorised medicinal product without informing, in advance or at the same time, the Veterinary Institute and, where applicable, the competent authorities of the Member States or of the Community. Where the marketing authorisation holder publishes information concerning pharmacovigilance, he or she must ensure that such information is communicated in an unbiased manner.

## **Section 97**

(1) The Veterinary Institute shall ensure that the reports on suspected serious adverse reactions and human adverse reactions associated with the use of the product occurring within the territory of the Czech Republic are, in compliance with Commission and Agency guidance, forwarded to the Agency and to other Member States within 15 days of receipt thereof by this institute; for this purpose the Veterinary Institute shall use an electronic network established by the Agency in cooperation with the Member States and with the Commission. Where such report is provided to the Veterinary Institute by a person other than the marketing authorisation holder, the Veterinary Institute shall ensure that the marketing authorisation holder is informed about this report within the maximum period of 15 days of receipt of the report by the Veterinary Institute.

(2) In veterinary product pharmacovigilance reporting the marketing authorisation holders must use the internationally recognised veterinary medical terminology.

(3) Where the Veterinary Institute, with a view to the evaluation of pharmacovigilance data, considers it necessary to suspend, revoke or change a marketing authorisation, it shall proceed in compliance with Section 93, paragraph 3 likewise.

(4) The Veterinary Institute shall prohibit the dispensing or use of a veterinary medicinal product or shall order a recall of the veterinary medicinal product from the market:

a) under the conditions stipulated in Section 93, paragraph 4; or

b) if the withdrawal period is insufficient to ensure that the food obtained from animals to whom the veterinary medicinal product has been administered does not contain residues that might present a risk to the health of the consumer.

(5) Repeal from a decision to prohibit the dispensing or use of a veterinary medicinal product or from an order to recall the veterinary medicinal product from the market shall have no suspensory effect.

## **TITLE VI PROVIDING INFORMATION, SURVEILLANCE ACTIVITIES, MEASURES AND SANCTIONS**

### **Part 1**

#### **Providing information, surveillance activities and adopted measures**

##### **Section 98**

Ensuring provision of information about defects of pharmaceuticals and about adverse reactions to medicinal products

(1) In the case of a jeopardy to public health or the health of animals or a jeopardy to the environment presented by the effects of pharmaceuticals the Institute or the Veterinary Institute shall provide information about the suspension of the use of the pharmaceutical, suspension of its marketing, prohibited dispensing, use or manufacture thereof, recall from the market or revocation and suspension of marketing authorisation in a manner allowing for remote access, and in serious cases which cannot be delayed, also by means of mass media of communication<sup>77)</sup> to healthcare facilities and persons delivering veterinary care.

(2) Where the Institute or the Veterinary Institute considers the measures adopted by an operator pursuant to Section 23, paragraph 1 (b) or by the marketing authorisation holder pursuant to Section 33, paragraph 3 (c) insufficient in terms of ensuring the protection of life and health of human beings or animals, it shall send the information referred to in paragraph 1 as well as any other information essential for healthcare facilities or for persons delivering veterinary care, where applicable, in a manner allowing for remote access to regional authorities, and, where the Veterinary Institute is involved, also to veterinary administrations. The regional authorities and, where relevant, veterinary administrations shall be obliged to forthwith forward the information obtained to healthcare and veterinary facilities within the scope of their jurisdiction, unless the Institute or the Veterinary Institute has already done so pursuant to paragraph 1. Concurrently, the Institute or the Veterinary Institute shall likewise provide this information to distributors who shall be obliged to forward it pursuant to Section 77, paragraph 1 (d) without any delay to the persons supplied thereby.

<sup>77)</sup> E.g. Act No 231/2001 Coll., on the Operation of Radio and Television Broadcasting and on Amendments to Other Acts, as amended.

##### **Section 99**

#### **Published data, data accessible to the public, and data protection**

(1) In their respective information media, the Institute or the Veterinary Institute shall publish:

- a) information about major adverse reactions to medicinal products and defects of pharmaceuticals or excipients and urgent safety measures;
- b) information about revocations and suspensions of marketing authorisation of medicinal products;
- c) a list of medicinal products authorised in the Czech Republic and within the Community, distinguishing whether these are medicinal products the dispensing of which is restricted to medical prescription, medicinal products which may be dispensed without medical

prescription or selected medicinal products, ensuring availability of relevant summaries of the product characteristics and package leaflets;

d) consumptions of medicinal products classified by the active substance contained therein, and by the route of administration;

e) a list of

1. holders of authorisations to engage in an activity, issued by the Institute or the Veterinary Institute, specifying the scope of activities of the concerned operators,

2. distributors referred to in Section 75, paragraph 4,

3. persons referred to in Section 77, paragraph 5 (a), items 1 to 3,

4. pharmacies, pointing out pharmacies engaged also in mail-order dispensing and a list of persons engaged in mail-order dispensing from Member States to the Czech Republic,

5. holders of certificates of good laboratory practice,

6. holders of certificates of manufacturers of raw materials,

7. ethics committees,

8. non-intervention studies;

f) information on:

1. therapeutic programmes approved by the Ministry of Health,

2. clinical trials which have received a permission to commence in the Czech Republic, with the exception of bioequivalence studies and studies where the active substance is administered to man for the first time,

3. granted authorisation for parallel import of medicinal products,

4. new requirements of the European Pharmacopoeia;

g) information on imposed penalties;

h) suspension or termination of marketing of a medicinal product in the Czech Republic with significant impact upon the delivery of health care;

i) decisions on the expiry of distribution authorisations;

j) criteria for the classification of medicinal products for dispensing taking into account the active substance, the maximum individual dose, the maximum daily dose, strength, pharmaceutical form, types of packaging of the medicinal products or other circumstances of use of the medicinal product;

k) a list of exemptions from marketing authorisation granted to veterinary medicinal products;

l) data relevant to the conditions of use of immunological veterinary medicinal products pursuant to Section 47, paragraph 1;

m) detailed guidance on the collection, verification and format of adverse event or reaction reports together with decoding procedures where serious unexpected adverse reactions are concerned;

n) an annual report on its activities.

(2) The Institute or the Veterinary Institute shall, within the scope of their jurisdiction, provide upon request access to:

a) information about issued authorisations to engage in an activity and certificates unless these have been published as referred to in paragraph 1;

b) assessment reports for medicinal products, with the exception of data constituting a business secret pursuant to special legal regulations<sup>55)</sup>;

c) information about marketing authorisations, variations thereto, renewals of marketing authorisations, transfers of marketing authorisations, expiry of marketing authorisations, adoptions of marketing authorisations, parallel import and conclusions of further administrative and other procedures referred to in this Act;

d) information about the course of individual administrative procedures and other procedures referred to in this Act, including information about suspensions of procedures; in these cases

the Institute or the Veterinary Institute shall make this information available to the public after the completion of the concerned procedure;

e) summary information about prices and quantities of individual medicinal products which have been distributed to healthcare facilities or to persons delivering veterinary care or dispensed pursuant to Section 82 to an operator authorised to dispense medicinal products;

f) information from the pharmacovigilance system and relevant to hemovigilance, where the Institute shall, having regard to the qualification of the applicant and the purpose of use of the information, assess the scope of information to be provided and may in the provision of information establish the conditions governing its further use in compliance with Commission and Agency guidance;

g) information about active risk management programmes of individual medicinal products;

h) its working procedures and organisational documents;

i) information about which clinical trials and specific therapeutic programmes are active or have been terminated early.

The Institute or the Veterinary Institute may also publish the information referred to in this paragraph in its respective information media.

(3) Data submitted within the scope of the marketing authorisation procedure for a medicinal product must not be made available to other persons without the approval of the applicant for marketing authorisation. The fact that an application for marketing authorisation of a medicinal product has been submitted to the Institute or the Veterinary Institute may be published before the completion of the procedure only if approved by the applicant for marketing authorisation. Data specified in the marketing authorisation of the medicinal product and annexes thereto may be published in full scope without the approval of the marketing authorisation holder. Furthermore, minutes of meetings may be published if a decision regarding an application for marketing authorisation of a medicinal product has been issued on the basis thereof, together with such decision; where a vote has been taken, also with the results of such vote, including a specification of an opinion diverging from the opinion of the majority, and the assessment report for the medicinal product unless these documents contain data referred to in special legal regulations<sup>55</sup>). Assessment reports for the medicinal product shall be published in the Czech or English language.

(4) The publication or provision of safety information with a serious impact on the health or life of persons or animals in the public interest or information about consumptions of medicinal products referred to in paragraph 1 (d) shall not be considered a breach of business secret pursuant to special legal regulations<sup>55</sup>).

(5) Data provided to the Institute by distributors pursuant to Section 77, paragraph 1 (f) and by operators authorised to dispense medicinal products pursuant to Section 82, paragraph 3 (d) shall be made available and published following their processing in a manner preventing, with regard to circumstances, any possible identification of the person to whom the data pertain to. Where such data contain personal data, such data shall be subject to protection in a manner stipulated by a special Act<sup>36</sup>).

## **Section 100**

### **Exchange of information among the competent authorities of the Member States**

(1) The Institute or the Veterinary Institute informs the competent authorities of the Member States about achieving compliance with the requirements governing manufacturing or marketing authorisations of medicinal products.

(2) Upon request of a competent authority of a Member State the Institute or the Veterinary Institute shall disclose to this authority the contents of the inspection report.

(3) If the Institute or the Veterinary Institute has obtained a report referred to in paragraph 2 from a competent authority of a Member State, and does not agree with the conclusions of the competent authority of the Member State where the report has been drawn, it shall inform this authority about its reasons and, if necessary, shall request further information. If necessary in the case of seriously diverging opinions where consensus with the competent authority could not be achieved, the concerned institute shall inform the Commission and the Agency.

(4) The Institute or the Veterinary Institute shall notify the Agency of marketing authorisations, declined or revoked marketing authorisations, repealed decisions on declining or revoking a marketing authorisation, prohibition of dispensing or recall of a medicinal product from the market together with the reasons which form grounds of such decisions.

(5) The marketing authorisation holder shall be obliged to forthwith notify the Member States where the medicinal product is authorised or placed on the market of measures adopted to suspend the placement of the medicinal product on the market or to recall the medicinal product from the market, specifying the reasons which form grounds of such measure; the Institute or the Veterinary Institute shall provide this information to the Agency.

(6) The Institute or the Veterinary Institute shall forthwith provide information about the measures referred to in paragraphs 4 and 5 which may affect public health protection in third countries, to the World Health Organisation and to the Agency.

(7) The Institute shall provide to the competent authorities of other Member States information pertaining to a serious adverse reaction or serious adverse event or suspected serious adverse reaction or suspected serious adverse event, to ensure that defective transfusion products and raw materials for further production are recalled from use and disposed of. If the Institute obtains such information from the competent authorities of other Member States, it shall proceed in compliance with Section 13, paragraph 2 (c) or (e).

## **Section 101**

### **Inspection activities**

(1) The authorities performing state administration referred to in Section 10 and inspectors shall in the conduct of inspections pursuant to this Act proceed in compliance with a special legal regulation<sup>78)</sup>.

(2) Where a justified suspicion of illegal conduct as per this Act exists, the Institute or the Veterinary Institute shall be authorised to:

a) take, against compensation, necessary samples of medicinal products, starting materials or intermediate products to assess their quality and safety pursuant to this Act and to a special legal regulation<sup>79)</sup>; the Institute or the Veterinary Institute shall reimburse the taken samples in the amount equal to the manufacturing or acquisition costs, if the person suspected of illegal conduct requests so in writing; where the medicinal product, raw material or intermediate



product does not meet the requirements stipulated by this Act and by a special legal regulation<sup>79)</sup> the eligibility for reimbursement shall be considered void and the Institute or the Veterinary Institute shall be entitled to the refund of costs incurred;

b) request from other state administration bodies, the Czech Police, and other persons the provision of personal data necessary for the establishment of identity of persons reasonably suspect of illegal conduct as per this Act in order to commence administrative proceedings against these persons pursuant to this Act; the Institute shall handle these data in compliance with special legal regulations<sup>60)</sup>;

c) to verify the identity of natural persons if they provide an oral explanation<sup>80)</sup>; the performance of this power shall be ensured by the authorised staff of the Institute or the Veterinary Institute;

d) use the necessary quantities of the taken medicinal product as per paragraph 4 (d) for laboratory testing in order to verify the breach of law.

(3) The Institute or the Veterinary Institute shall ensure, by repeated inspections, and, where applicable, by conducting laboratory tests of samples, compliance with the requirements stipulated by legal regulations governing medicinal products, active substances and excipients pursuant to the guidance published by the Commission and the Agency. The Institute or the Veterinary Institute shall also conduct inspections without prior notice or outside the territory of the Czech Republic or upon request of another Member State, the Commission or the Agency.

(4) Inspectors shall be empowered to inspect compliance with this Act at the premises of operators and other persons handling pharmaceuticals. In addition to their rights implied by a special legal regulation<sup>78)</sup>, inspectors in their inspection activities shall be authorised to:

a) conduct, also without prior notice, inspections of premises, facilities and documentation related to the activities governed by this Act, inspections of laboratories authorised by the manufacturing authorisation holder to perform quality controls pursuant to Section 64 (d), and, furthermore, to inspect records and documents associated with the activities conducted pursuant to Chapter Five hereof by marketing authorisation holders themselves or by other entities;

b) verify the identity of persons if these are the inspected persons, of their representatives, and to verify these representatives' authorisations for representation;

c) take samples of medicinal products, regardless of the conditions governing their dispensing, as well as samples of starting materials, intermediate products and packaging and to subject these samples to laboratory testing; the reimbursement of taken samples shall be governed by the provisions of paragraph 2 (a) likewise;

d) in justified cases, particularly where deceitful labelling of a medicinal products is concerned, temporarily impound the product; the inspector shall inform the inspected person of this action and shall provide it with an official record of the adopted action specifying the description and quantity of the impounded medicinal products and reason therefor; this official record shall form part of the inspection report; when the reasons for the action are eliminated, the inspector shall return the impounded medicinal products in an uncompromised condition to the inspected person or, if applicable, shall inform the inspected person without unnecessary delay about the procedure referred to in Section 88; this shall not prejudice the provisions of paragraph 2 (d); if it is evidenced in the course of the procedure referred to in a special legal regulation<sup>78)</sup> that the impounded medicinal products comply with the requirements of this Act, the Institute or the Veterinary Institute shall return the impounded medicinal products in an uncompromised condition to the inspected person; if it is evidenced in the course of the procedure referred to in a special legal regulation<sup>78)</sup> that the impounded

medicinal products do not comply with the requirements of this Act, the Institute or the Veterinary Institute shall issue a decision on the confiscation of the medicinal product; the Institute or the Veterinary Institute shall be obliged to dispose of the confiscated medicinal products pursuant to Section 88; this shall not prejudice the provisions of paragraph 2 (d); for the duration of the action and if a decision on the confiscation of the medicinal product is adopted, the inspected person shall not be entitled to any reimbursement of the impounded or confiscated medicinal products; if a decision on the confiscation of the medicinal products is adopted, the inspected person shall be obliged to reimburse the costs incurred to the Institute or the Veterinary Institute in respect of the storage of the impounded medicinal products and disposal of the confiscated medicinal products;

e) take the medicinal products impounded as per letter (d) from the inspected person, if the inspected person refuses to cooperate as necessary; the inspector shall record this action and this record shall form part of the inspection report;

f) to invite other persons to participate in the inspection, if necessary for the assessment of expert issues associated with the conduct of the inspection; these persons shall be bound to confidentiality in the same extent<sup>78)</sup> as inspectors.

(5) In addition to the obligations stipulated by a special legal regulation<sup>78)</sup>, inspected persons shall be obliged to cooperate in an extent adequate to the powers of the inspectors referred to in paragraph 4.

(6) In their inspection activities, the inspectors shall be, furthermore, authorised to:

a) suspend the validity of authorisations for persons to whom authorisations pursuant to this Act have been issued;

b) where vendors of selected medicinal products are concerned, suspend their operation and file a petition with the Trades Licensing Office to suspend their trading or revoke their trade licence<sup>74)</sup>;

c) where inspections in the sphere of human pharmaceuticals are concerned, suspend the dispensation of the authorisation implied by the decision issued pursuant to special legal regulations<sup>9)</sup> and where inspections in the sphere of veterinary pharmaceuticals are concerned, dispensation of the authorisation to engage in specialised veterinary activities implied by an authorisation therefor issued pursuant to a special legal regulation<sup>18)</sup>;

d) suspend the dispensing of transfusion products in a blood bank or in a blood centre.

The decisions referred to in letters (a) to (d) shall be imposed within the scope of the procedure on site pursuant to a special legal regulation<sup>81)</sup>. Such decision may be adopted only if the inspected person has seriously breached the conditions stipulated as binding in terms of the authorisation to engage in an activity, the trade license or a decision adopted pursuant to a special legal regulation<sup>71)</sup> or has seriously breached its obligations stipulated by this Act.

(7) The costs incurred by authorities performing state administration pursuant to this Act in respect of their inspection activities shall be reimbursed by the inspected person, if the inspection has been carried out upon request of the latter, including cases where the inspection takes place outside the territory of the Czech Republic.

(8) Where the Institute identifies shortcomings in respect of persons to whom it has granted a certificate, it may revoke the validity of the certificate issued thereby.

(9) If the Institute in its inspection finds out that the operator conducting nonclinical safety studies fails to comply with the principles of good laboratory practice in a way which may

compromise the validity of the conducted studies, it shall inform the Commission. The Institute shall not inspect compliance with the principles of good laboratory practice, if it has been inspected by the competent authority of another Member State; in such a case the Institute shall recognise the results of the inspection or shall proceed in compliance with Section 100, paragraph 3. The list of operators conducting nonclinical safety studies who have obtained their certificates as of December 31 of each calendar year and a listing of inspections for the previous calendar year shall be submitted by the Institute to the Commission by March 31 at the latest.

<sup>78)</sup> Act No 552/1991 Coll., on State Supervision, as amended.

<sup>79)</sup> Act No 102/2001 Coll., on General Safety of Products and Amendments to Some Acts (Act on General Safety of Products), as amended.

<sup>80)</sup> Section 137 of Act No. 500/2004 Coll., the Administrative Code.

<sup>81)</sup> Section 143 of Act No. 500/2004 Coll., the Administrative Code.

## **Section 102**

### **Batch release**

(1) The Institute, or where products referred to in letter (f) are concerned, the Veterinary Institute may require, if this is considered necessary with respect to public health, the marketing authorisation holder of:

- a) live vaccines;
- b) immunological medicinal products used in the primary immunisation of children or other risk groups;
- c) immunological medicinal products used in public health immunisation programmes;
- d) new immunological medicinal products or immunological medicinal products manufactured using new or altered kinds of technology or those which are new for a particular manufacturer, during a transitional period;
- e) blood derivatives; or
- f) veterinary immunological medicinal products

to submit, prior to the placing on the market, samples of each batch of the bulk or finished medicinal product for examination by the Institute or the Veterinary Institute, which may also commission the examination to the laboratories of another person.

(2) Where the provisions of paragraph 1 apply and the batch concerned has been previously examined by the competent authority of another Member State and declared it to be in conformity with the approved specifications, the Institute or the Veterinary Institute shall avail of these conclusions.

(3) Where the Veterinary Institute, having studied the conclusions of the authority of another Member State does not agree therewith, it may repeat the examinations providing that it informs the Commission thereof and provides a proper reason therefor constituting of existing differences.

(4) The Institute or the Veterinary Institute shall ensure that the examination of samples is carried out within 60 days of their receipt; in a justifiable case the Veterinary Institute may exceed the examination time limit by a necessary period, providing it has informed the Commission to this effect. The Institute or the Veterinary Institute shall inform the marketing

authorisation holder of the medicinal product in question about the results of the examination referred to in paragraph 1 within the timelines set forth in sentence one.

## **Part 2**

### **Administrative delicts**

#### **Section 103**

(1) A legal person or a natural person who is an entrepreneur shall commit an administrative offence by:

- a) handling pharmaceuticals without authorisation, approval, marketing authorisation or consent in a case where the Act or a directly applicable Community regulation requires an authorisation, approval, marketing authorisation or consent to handle pharmaceuticals;
- b) places on the market a medicinal product subjected to mandatory marketing authorisation pursuant to Section 25 or to marketing authorisation via Community centralised procedure pursuant to a directly applicable Community regulation<sup>24)</sup>, if no such marketing authorisation has been granted to this product, or places on the market such medicinal product contrary to the conditions established by the marketing authorisation.

(2) A legal person or natural person who is an entrepreneur referred to in Section 24, paragraph 1 shall commit an administrative offence by importing or exporting a transfusion product or plasma contrary to Section 24, paragraph 4 or fails to inform about the realisation of import from a third country or about the realisation of export to a third country pursuant to Section 24, paragraph 7.

(3) A legal person or natural person who is an entrepreneur shall commit an administrative offence by failing, as the marketing authorisation holder of a medicinal product authorised via Community centralised procedure, to:

- a) submit to the Institute or the Veterinary Institute new information which might result in a change to the data or documentation of the concerned medicinal product;
- b) inform the Institute or the Veterinary Institute about a prohibition or restriction imposed by the competent authorities of any country where the medicinal product in question is marketed, or about any other new information which might affect the risk-benefit assessment of the concerned medicinal product;
- c) comply with another obligation stipulated by a directly applicable Community regulation<sup>24)</sup> governing the sphere of manufacture or pharmacovigilance other than those referred to in letters (a) and (b).

(4) A legal person or natural person who is an entrepreneur shall commit an administrative offence by:

- a) keeping, contrary to Section 78, paragraph 1, substances that have anabolic, anti-infectious, anti-parasitic, anti-inflammatory or hormonal effects or dependency-producing substances or precursors and which may be used in the manufacture of veterinary medicinal products;
- b) failing, as a person referred to in Section 78, paragraph 2 to file a notice contrary to Section 78, paragraph 2 or failing to maintain or keep records contrary to Section 78, paragraph 4;
- c) preparing a medicinal product without being authorised to pursuant to Section 79, paragraph 2; or
- d) dispensing or selling a medicinal product without being the person authorised therefor pursuant to Section 82, paragraph 2 or 6.

(5) A legal person or a natural person who is an entrepreneur shall, as the person handling pharmaceuticals, commit an administrative offence by:

- a) handling medicinal products contrary to Section 7, paragraph 1 (b);
- b) using, in the delivery of health care, a medicinal product contrary to Section 8, paragraphs 1 to 5;
- c) using, in the delivery of veterinary care, a medicinal product contrary to Section 9, paragraphs 1 to 9 and paragraphs 11 to 15 or by using a veterinary autogenic vaccine contrary to Section 72, paragraph 1 or 3;
- d) failing, as the person involved in a clinical trial, to observe the rules of good clinical practice referred to in Section 56, paragraph 13 or of good veterinary practice referred to in Section 61, paragraph 1; or
- e) failing, as the submitter of a therapeutic programme for a medicinal product subjected to marketing authorisation via the Community centralised procedure, to ensure availability of the concerned medicinal product for the patients involved in the therapeutic programme in the period from marketing authorisation to the placement on the market contrary to a directly applicable Community regulation<sup>24)</sup>.

(6) An operator shall commit an administrative offence by:

- a) failing, contrary to Section 23, paragraph 1 (b), to adopt any available measures aimed at remedying the situation and eliminating the adverse effects of the pharmaceutical;
- b) failing to observe the notification duty referred to in Section 23, paragraph 1 (b) or (c);
- c) failing, contrary to Section 23, paragraph 1 (d), to provide source materials necessary for the monitoring of consumption of medicinal products;
- d) placing on the market or using in the delivery of health care or veterinary care a pharmaceutical contrary to Section 23, paragraph 2;
- e) failing, as an operator conducting nonclinical safety studies, to observe the rules of good laboratory practice referred to in Section 23, paragraph 5; or
- f) failing, as an operator handling human blood, its components, transfusion products, and raw materials for further production, to:
  1. preserve the quality and safety as referred to in Section 24, paragraph 1,
  2. maintain or keep records as referred to in Section 24, paragraph 2, or
  3. fulfil its obligation set forth in Section 24, paragraph 3 where a serious adverse reaction or a serious adverse event occurs or is suspected.

(7) An operator of a healthcare facility where, pursuant to Section 79, paragraph 2, medicinal products may be prepared, shall commit an administrative offence by:

- a) failing to comply with the conditions or scope of preparation of medicinal products as referred to in Section 79, paragraphs 1 and 2;
- b) failing to safeguard the quality of medicinal products prepared thereby or by failing to observe the rules of good pharmacy practice referred to in Section 79, paragraph 3;
- c) failing to notify the commencement or termination of its operation pursuant to Section 79, paragraph 4; or
- d) using in the preparation of medicinal products a substance contrary to Section 79, paragraph 8.

(8) An operator of a healthcare facility where medicinal products may be prepared in compliance with Section 79, paragraph 2 (b) or (c) shall commit an administrative offence by failing to appoint a person responsible for the preparation and handling of pharmaceuticals pursuant to Section 79, paragraph 7.

(9) An operator of a healthcare facility referred to in Section 82, paragraph 2 shall commit an administrative offence by:

- a) taking a medicinal product subjected to marketing authorisation pursuant to Section 25 contrary to Section 82, paragraph 3 (b);
  - b) compromising, contrary to Section 82, paragraph 3 (c), the integrity of the packaging of a medicinal product subjected to marketing authorisation pursuant to Section 25;
  - c) failing, contrary to Section 82, paragraph 3 (d), to maintain and keep records of dispensing of medicinal products or by failing to provide data about dispensed medicinal products;
  - d) failing to maintain records or to keep them in compliance with Section 82, paragraph 3 (e);
- or
- e) failing to inform the patient of the identification code referred to in Section 80.

(10) An operator of a pharmacy shall commit an administrative offence by:

- a) failing to comply with the requirement for the professional prerequisite necessary for handling of pharmaceuticals as referred to in Section 79, paragraph 5;
- b) failing to appoint a person responsible for the operation of the pharmacy as referred to in Section 79, paragraph 6;
- c) taking a prepared medicinal product or, where applicable, active substances and excipients intended for its preparation from another pharmacy contrary to Section 79, paragraph 9;
- d) dispensing a medicinal product without medical prescription contrary to Section 82, paragraph 1;
- e) dispensing a medicinal product to another pharmacy contrary to Section 82, paragraph 4;
- f) failing to ensure record keeping of the dispensing of a medicinal product prescribed by a doctor as referred to in Section 83, paragraph 5 (a);
- g) failing to proceed in compliance with Section 83, paragraph 5 (b) in the dispensing of medicinal products or record-keeping; or
- h) failing to notify the central repository of electronic prescriptions pursuant to Section 82 that the prescribed medicinal product has already been dispensed where dispensing of medicinal products on electronic prescription is concerned.

(11) An operator of a pharmacy engaged in mail-order dispensing shall commit an administrative offence by failing to:

- a) observe the notification duty referred to in Section 84, paragraph 3;
  - b) contrary to Section 85, paragraph 1, dispense via mail order a medicinal product without marketing authorisation in the Czech Republic or within the Community or dispense via mail order a medicinal product the dispensing of which is subject to medical prescription;
  - c) publish information about mail-order dispensing, medicinal products on offer, prices thereof, and costs incurred in association with mail-order dispensing pursuant to Section 85, paragraph 2 (a);
  - d) safeguard the packaging or transportation of a consignment containing medicinal products pursuant to Section 85, paragraph 2 (b);
  - e) safeguard the sending of the consignment to the ordering party pursuant to Section 85, paragraph 2 (c);
  - f) safeguard the information service referred to in Section 85, paragraph 2 (d);
  - g) safeguard the return of queried medicinal products pursuant to Section 85, paragraph 2 (e);
- or
- h) comply with the conditions governing the handling of medicinal products with foreign-language labelling pursuant to Section 86, paragraph 1.

(12) A vendor of selected medicinal products shall commit an administrative offence by:

- a) failing, contrary to Section 23, paragraph 4 (a), to safeguard that each natural person selling selected medicinal products complies with the condition of certification of professional competence of a vendor of selected medicinal products;
- b) failing to comply with the rules of good practice of vendors of selected pharmaceuticals pursuant to Section 23, paragraph 4 (b);
- c) selling, contrary to Section 23, paragraph 4 (c), a medicinal product other than a selected one;
- d) failing to exclude from sale a selected medicinal product pursuant to Section 23, paragraph 4 (d), items 2 to 6; or
- e) taking, contrary to Section 23, paragraph 4 (f), a selected medicinal product from persons other than distributors or manufacturers of these medicinal products and by failing to keep records of the purchasing, storing, and sale of selected medicinal products for the period of five years.

(13) A legal person or natural person who is an entrepreneur shall, as the marketing authorisation holder of a medicinal product, commit an administrative offence if, contrary to the directly applicable Community regulation governing medicinal products for paediatric use<sup>82)</sup>, he or she:

- a) fails to reflect the paediatric indications in the summary of the product characteristics or in the package leaflet within two years of the marketing authorisation thereof;
- b) fails to observe the obligation to periodically update reports on the safety of the medicinal product with a view to information relevant to the assessment of efficacy of the risk management system and to the results of required special studies;
- c) fails to submit to the Institute an annual report on the progress of paediatric studies in compliance with the Agency decision regarding the approval of the paediatric research plan and granting a postponement, or fails to act in compliance with such Agency decision;
- d) fails to submit to the Institute all studies sponsored thereby which are relevant to the use of the authorised medicinal product in paediatric population, or fails to submit such studies to the institute within six months of the date of their completion;
- e) breaches another obligation set forth by the directly applicable Community regulation governing medicinal products for paediatric use<sup>82)</sup> or by an implementing regulation adopted with regard thereto.

<sup>82)</sup> Regulation (EC) No 1901/2006 of the European Parliament and of the Council on medicinal products for paediatric use and amending Regulation (EEC) No 1768/92, Directive 2001/20/EC, Directive 2001/83/EC and Regulation (EC) No 726/2004.

## **Section 104**

(1) A manufacturer of medicinal products shall commit an administrative offence by failing, contrary to Section 64 (j), to observe the manufacturing authorisation or rules of good manufacturing practice in the manufacture of medicinal products.

(2) An operator of a blood centre shall commit an administrative offence by failing, contrary to Section 67, paragraph 4 and Section 64 (j), to observe the manufacturing authorisation or rules of good manufacturing practice in the manufacture of a transfusion product.

(3) An operator of a control laboratory shall commit an administrative offence by failing, contrary to Section 69, paragraph 3 and Section 64 (j), to observe the manufacturing authorisation or rules of good manufacturing practice in the quality control of medicinal products, active substances, excipients, intermediate products or packaging.

(4) A manufacturer of medicinal products or an operator of a blood centre shall commit an administrative offence by failing to apply in advance for a variation to manufacturing authorisation pursuant to Section 64 (h), where a manufacturer of medicinal products is concerned, or pursuant to Section 67, paragraph 4 and Section 64 (h), where an operator of a blood centre is concerned.

(5) A manufacturer of medicinal products or an operator of a control laboratory who, in compliance with Section 69, paragraph 3, fulfils some obligations of a manufacturer of medicinal products, shall commit an administrative offence by failing to:

- a) safeguard the conduct of manufacturing activities in respect of authorised medicinal products in compliance with Section 64 (b);
- b) establish a quality control unit or failing to safeguard the conditions of its operation referred to in Section 64 (d) or failing to ensure the services of a professionally competent person responsible for quality control pursuant to Section 64 (e); or
- c) ensure, contrary to Section 64 (l), validation of manufacturing processes.

(6) An operator of a healthcare facility which incorporates a blood bank, or an operator of a blood bank shall commit an administrative offence by failing to:

- a) maintain or keep documentation and records pursuant to Section 67, paragraph 4 (e);
- b) establish a donor identification system pursuant to Section 67, paragraph 4 (f);
- c) observe the notification duty referred to in Section 67, paragraph 4 (g); or
- d) establish or maintain a system for the monitoring and evaluation of adverse events, adverse reactions, incidents, and errors pursuant to Section 67, paragraph 4 (h).

(7) A manufacturer of medicinal products shall commit an administrative offence by:

- a) failing to notify a change to the data referred to in Section 63, paragraph 7;
- b) failing to safeguard the services of a qualified person of manufacturer pursuant to Section 64 (a);
- c) failing to comply with the requirements set forth in Section 64 (r) in the import of medicinal products, where the manufacturer imports medicinal products;
- d) manufacturing, contrary to Section 71, paragraph 2, a veterinary autogenic vaccine without a prescription for veterinary autogenic vaccine or by failing to observe the prescription in the manufacture or by failing to observe the restrictions applicable to the manufacture of veterinary autogenic vaccines pursuant to Section 71, paragraph 4 or 5;
- e) failing to comply with the notification duty in advance of the commencement of manufacture of a veterinary autogenic vaccine pursuant to Section 71, paragraph 6;
- f) manufacturing or placing on the market a medicated feedingstuff contrary to Section 73, paragraph 1;
- g) manufacturing or placing on the market, contrary to Section 73, paragraph 8, a medicated feedingstuff without having met the conditions set forth in Section 73, paragraph 7;
- h) failing to label a medicated feedingstuff with special data established for the labelling of medicated feedingstuffs as per Section 74, paragraph 5; or
- i) failing, as a manufacturer authorised to engage in the activities of a distributor pursuant to Section 75, paragraph 5, to notify in advance the commencement of distribution in the Czech Republic or to provide data and information referred to in Section 75, paragraph 4.

(8) An operator of a blood centre shall commit an administrative offence by:

- a) failing to safeguard the services of a qualified person of the blood centre pursuant to Section 67, paragraph 4 (a);



- b) taking or distributing a transfusion product contrary to Section 67, paragraph 4 (k);
- c) distributing or dispensing a transfusion product contrary to Section 67, paragraph 5 (b);
- d) failing, contrary to Section 67, paragraph 8, to provide to the Institute data about the qualified person of the blood centre and about persons engaged in the activities of the qualified person of a blood centre; or
- e) failing, contrary to Section 67, paragraph 4 (l), to comply with the obligation set forth in Section 83, paragraph 5 (a) and (b).

(9) An operator of a healthcare facility which incorporates a blood bank shall commit an administrative offence by failing to ensure:

- a) compliance with the requirements governing the quality system and good manufacturing practice pursuant to Section 68, paragraph 1 (a); or
- b) the services of the qualified person of a blood bank pursuant to Section 68, paragraph 1 (c).

(10) An operator of a control laboratory shall commit an administrative offence by failing to apply in advance for a variation to the authorisation to engage in activities of a control laboratory pursuant to Section 69, paragraph 4.

## **Section 105**

(1) A manufacturer of raw materials shall commit an administrative offence by failing to:

- a) comply, contrary to Section 70, paragraph 1, with the rules of good manufacturing practice in the manufacture of raw materials;
- b) comply with the notification duty referred to in Section 70, paragraph 3; or
- c) as the manufacturer of gases used in the delivery of health care, certify the quality of these gases pursuant to Section 70, paragraph 4.

(2) A distributor shall commit an administrative offence by:

- a) realising parallel import of a medicinal product contrary to Section 45, paragraph 1;
- b) distributing a medicated feedingstuff from Member States contrary to Section 73, paragraph 3;
- c) distributing medicinal products without marketing authorisation contrary to Section 75, paragraph 1 (a), unless distribution of medicinal products pursuant to Section 75, paragraph 1 (b) is concerned;
- d) failing, as the holder of a distribution authorisation granted by the competent authority of another Member State, to notify the commencement of distribution in the Czech Republic or by failing to provide data and information referred to in Section 75, paragraph 4;
- e) failing to apply in advance for a variation to distribution authorisation as per Section 76, paragraph 3;
- f) taking, contrary to Section 77, paragraph 1 (b), a medicinal product from a person other than a distributor or manufacturer;
- g) supplying a medicinal product to a person other than that referred to in Section 77, paragraph 1 (c);
- h) failing to design an effective system for recalls of medicinal products or active substances or excipients from the market or by failing to provide the established information to its suppliers in compliance with Section 77, paragraph 1 (d), or in compliance with Section 77, paragraph 5 (d), where a distributor with an authorisation including the distribution of active substances and excipients is concerned;
- i) failing to provide data about volumes of distributed medicinal products pursuant to Section 77, paragraph 1 (f);

- j) failing, contrary to Section 77, paragraph 1 (g), to observe the rules of good distribution practice in distribution;
- k) importing, contrary to Section 77, paragraph 1 (i), a medicinal product from a third country; or
- l) supplying an active substance or an excipient to a person authorised to prepare medicinal products contrary to Section 77, paragraph 5 (a).

(3) A manufacturer of medicinal products or a distributor shall commit an administrative offence by supplying, contrary to Section 74, paragraph 7, a medicated feedingstuff to a person who is not specified as the recipient of the medicated feedingstuff in the prescription for the medicated feedingstuff.

(4) A parallel import authorisation holder shall commit an administrative offence by:

- a) failing to keep records pursuant to Section 45, paragraph 7 (a);
- b) failing to suspend the dispensing or marketing of a parallelly imported medicinal product as per Section 45, paragraph 7 (a);
- c) failing to reflect a variation to the marketing authorisation of the reference product for parallel import pursuant to Section 45, paragraph 7 (a);
- d) using, contrary to Section 45, paragraph 7 (a), the services of a person other than a manufacturing authorisation holder for the purposes of treatment of a parallelly imported medicinal product;
- e) failing to label a divided-up medicinal product in compliance with Section 45, paragraph 7 (b);
- f) failing to cooperate pursuant to Section 45, paragraph 7 (c);
- g) failing to notify the marketing authorisation holder of the reference product for parallel import of its intention to commence parallel import or failing to provide the marketing authorisation holder of the reference product for parallel import with a sample of the parallelly imported medicinal product pursuant to Section 45, paragraph 7 (d); or
- h) failing to safeguard pharmacovigilance pursuant to Section 45, paragraph 7 (e).

(5) A marketing authorisation holder shall commit an administrative offence by:

- a) failing to comply with the obligation imposed thereupon by the marketing authorisation pursuant to Section 32, paragraph 3 or 4;
- b) failing to introduce changes or inform the Institute or the Veterinary Institute pursuant to Section 33, paragraph 1;
- c) failing to comply with the notification duty referred to in Section 33, paragraph 2;
- d) failing to ensure that the properties of the authorised medicinal product are consistent with the documentation as per Section 33, paragraph 3 (a);
- e) failing, contrary to Section 33, paragraph 3 (c), to adopt any available measures aimed at remedying the situation and eliminating the adverse effects of the medicinal product or failing to file a notification of the measures taken;
- f) failing to satisfy the requests of the concerned institute or failing to cooperate in compliance with Section 33, paragraph 3 (d);
- g) failing to implement and maintain a system to guarantee the record-keeping or traceability or compliance with storage conditions of a promotional sample of a medicinal product pursuant to Section 33, paragraph 3 (f);
- h) failing to establish or operate a public scientific service referred to in Section 33, paragraph 3 (g), item 1;
- i) failing to ensure the storage of specimen of promotional materials and data pursuant to Section 33, paragraph 3 (g), item 3;

- j) failing to safeguard the supplies of the medicinal product pursuant to Section 33, paragraph 3 (g), item 4;
- k) failing to submit specimen packaging of the product pursuant to Section 33, paragraph 3 (h);
- l) failing to apply in advance for a variation to marketing authorisation pursuant to Section 35, paragraph 1;
- m) failing to adopt temporary urgent safety restrictions referred to in Section 35, paragraph 7;
- n) transferring marketing authorisation contrary to Section 36, paragraph 1;
- o) failing, contrary to Section 35, paragraph 12, to safeguard consistency of labelling of the outer and immediate packaging of a medicinal product or package leaflet with the approved summary of the product characteristics;
- p) failing to safeguard the services of a person responsible for pharmacovigilance pursuant to Section 91, paragraph 1, or pursuant to Section 95, paragraph 1, where veterinary medicinal products are concerned;
- q) failing to inform about a change of the person responsible for pharmacovigilance pursuant to Section 91, paragraph 3, or pursuant to Section 95, paragraph 3, where veterinary medicinal products are concerned;
- r) failing to keep records of all suspected adverse reactions pursuant to Section 92, paragraph 1, or pursuant to Section 96, paragraph 1, where veterinary medicinal products are concerned;
- s) failing to comply with the notification duty pursuant to Section 92, paragraphs 2, 3, 4 or 6, or pursuant to Section 96, paragraphs 2, 3, or 4, where veterinary medicinal products are concerned;
- t) failing to submit a periodic safety update report pursuant to Section 92, paragraph 7 or 8, or pursuant to Section 96, paragraph 5 or 6, where veterinary medicinal products are concerned;
- u) disclosing information regarding pharmacovigilance pertaining to its medicinal product contrary to Section 92, paragraph 10, or contrary to Section 96, paragraph 8, where veterinary medicinal products are concerned;
- v) failing to maintain documentation on pharmacovigilance pursuant to Section 92, paragraph 11; or
- w) failing to notify the commencement or completion of a non-intervention safety study pursuant to Section 92, paragraph 12.

(6) A sponsor shall commit an administrative offence by:

- a) failing to conclude a liability insurance in compliance with Section 52, paragraph 3 (f);
- b) commencing a clinical trial contrary to Section 55, paragraph 1, or as per Section 60, paragraph 3, where a clinical trial on veterinary medicinal products is concerned;
- c) failing to inform about commencement of a clinical trial pursuant to Section 55, paragraph 8;
- d) failing to comply with the notification duty pursuant to Section 56, paragraph 1 (a) or paragraph 5 or 6;
- e) failing to adopt an urgent measure to protect trial subjects or to inform about new facts and adopted measures pursuant to Section 56, paragraph 3;
- f) failing to evaluate and update the investigator's brochure pursuant to Section 56, paragraph 4;
- g) failing to maintain documentation pursuant to Section 56, paragraph 7;
- h) failing to keep records or failing to provide them pursuant to Section 58, paragraph 3;
- i) failing to provide data pursuant to Section 58, paragraph 8;
- j) failing to safeguard reporting of suspected serious unexpected adverse reactions pursuant to Section 58, paragraph 4 or 5;
- k) failing to inform the investigators pursuant to Section 58, paragraph 7;

- l) failing to submit an application for a change of the sponsor pursuant to Section 59, paragraph 1 or failing to notify a change of the sponsor pursuant to Section 59, paragraph 3;
- m) failing to safeguard the conduct of a clinical trial in compliance with Section 61, paragraph 2 (a);
- n) failing to comply with the information duty referred to in Section 61, paragraph 2 (b); or
- o) failing to provide the investigator with medicinal products or failing to keep a sample thereof as per Section 61, paragraph 2 (c).

## **Section 106**

(1) A natural person who is an entrepreneur shall, as the qualified person of a manufacturer of medicinal products, commit an administrative offence by:

- a) failing, contrary to Section 66, paragraph 1, to ensure that each batch of a medicinal product is manufactured and controlled in compliance with this Act, the marketing authorisation dossier and the marketing authorisation, or, contrary to Section 66, paragraph 3, failing to evidence this fact in a registry or in an adequate document dedicated to this purpose; or
- b) failing, contrary to Section 66, paragraph 4, to ensure in the manufacture of investigational human medicinal products compliance with the requirements of good manufacturing practice or consistency with submitted documentation.

(2) A natural person who is an entrepreneur shall, as the qualified person of a blood centre commit an administrative offence by failing to safeguard the collection, testing or processing of each unit of blood and blood component or the control, release, storage or distribution of each unit of a transfusion product or raw material for further production pursuant to Section 67, paragraph 7 (a).

(3) A natural person who is an entrepreneur shall, as the person responsible for pharmacovigilance, commit an administrative offence by failing to ensure:

- a) the development and maintenance of a system referred to in Section 91, paragraph 2 (a), or in Section 95, paragraph 2, where veterinary medicinal products are concerned;
- b) the preparation of reports pursuant to Section 91, paragraph 2 (b), or the preparation of reports pursuant to Section 95, paragraph 2, where veterinary medicinal products are concerned;
- c) a reply to a request for the provision of additional information as per Section 91, paragraph 2 (c), or as per Section 95, paragraph 2, where veterinary medicinal products are concerned; or
- d) the provision of information essential for the risk-benefit assessment of a medicinal product pursuant to Section 91, paragraph 2 (d), or pursuant to Section 95, paragraph 2, where veterinary medicinal products are concerned.

(4) A natural person who is an entrepreneur shall, as the investigator, commit an administrative offence by:

- a) conducting a clinical trial in persons in whom it is prohibited by Section 52, paragraph 2;
- b) failing to adopt an urgent measure to protect trial subjects pursuant to Section 56, paragraph 3; or
- c) failing to maintain documentation of a clinical trial in compliance with Section 56, paragraph 7.

(5) A natural person who is an entrepreneur shall, as a veterinarian, commit an administrative offence by:

- a) importing, contrary to Section 48, paragraph 3, a veterinary medicinal product referred to in Section 48, paragraph 2;
- b) failing, contrary to Section 48, paragraph 6, to maintain, as the attending veterinarian, records on the import of veterinary medicinal products imported in compliance with Section 48, paragraph 2 or failing to store these records;
- c) issuing a prescription for a veterinary autogenic vaccine contrary to Section 71, paragraph 2;
- d) issuing a prescription for a medicated feedingstuff contrary to Section 73, paragraph 1 or Section 74, paragraph 1; or
- e) prescribing, as the concerned attending veterinarian, a medicated feedingstuff contrary to Section 74, paragraph 4.

(6) A natural person who is an entrepreneur shall, as a healthcare professional, commit an administrative offence by failing to:

- a) comply with the notification duty referred to in Section 90, paragraph 1 (a);
- b) cooperate or provide access to documentation pursuant to Section 90, paragraph 1 (b); or
- c) observe, in the use of medicinal products, the conditions of the risk management system pursuant to Section 90, paragraph 2.

## **Section 107**

(1) For an administrative offence, a fine shall be imposed of up to:

- a) 50 000 CZK, where an administrative offence referred to in Section 106, paragraph 3 (b) or (c), Section 106, paragraph 4 (c) or Section 106, paragraph 6 (b) is concerned;
- b) 100 000 CZK, where an administrative offence referred to in Section 103, paragraph 4 (b), Section 103, paragraph 5 (b), Section 103, paragraph 6 (c), Section 103, paragraph 7 (a) to (c), Section 103, paragraph 9 (e), Section 103, paragraph 10 (c) or (e), (f) and (h), Section 103, paragraph 11 (a), (g) or (h), Section 103, paragraph 12 (d), Section 104, paragraph 7 (a), Section 105, paragraph 2 (e), (i) or (l), Section 105, paragraph 4 (a), (c) or (e) to (h), Section 106, paragraphs 1, 2 or paragraph 3 (a) or (d), Section 106, paragraph 4 (a) or (b) or Section 106, paragraph 5 or 6 (a) or (c) is concerned;
- c) 500 000 CZK, where an administrative offence referred to in Section 103, paragraph 5 (a), Section 103, paragraph 6 (e), Section 103, paragraph 7 (d), Section 103, paragraphs 8, 9 or paragraph 10 (a), (b), (d) or (g), Section 103, paragraph 11 (b) to (f), Section 103, paragraph 12 (a) to (c) or (e), Section 104, paragraph 5 (b) or (c), Section 104, paragraph 7 (h), Section 104, paragraph 9 or 10, Section 105, paragraph 4 (b) or (d), Section 105, paragraph 5 (c), (g), (k) or (q) or Section 105, paragraph 6 (c), (d), (f), (h) to (l), (n) or (o) is concerned;
- d) 1 000 000 CZK, where an administrative offence referred to in Section 103, paragraph 2, Section 103, paragraph 4 (a), (c) or (d), Section 103, paragraph 5 (c) or (d), Section 103, paragraph 6 (b), (d) or (f), Section 104, paragraph 4 or 5 (a), Section 104, paragraph 6 or 7 (d) to (g), Section 104, paragraph 8, Section 105, paragraph 1 or 2 (a) to (d), (f) to (h), (j) or (k), Section 105, paragraph 3 or 5 (h), (i), (l), (n), (o) or (s) to (w) or Section 105, paragraph 6 (b), (e), (g) or (m) is concerned;
- e) 3 000 000 CZK, where an administrative offence referred to in Section 103, paragraph 1 (a), (b), Section 103, paragraph 3 (a) to (c), Section 103, paragraph 5 (e), Section 103, paragraph 6 (a), Section 103, paragraph 13, Section 104, paragraph 1 to 3, or paragraph 7 (b) or (c), Section 105, paragraph 5 (a), (b), (d), (e), (f), (j), (m), (p) or (r) or Section 105, paragraph 6 (a) is concerned.

(2) Where an administrative offence referred to in Section 106, paragraph 1 to 4 is concerned, a ban on operation may be also imposed for the period of two years.

### **Section 108**

(1) A natural person shall commit an offence by:

- a) handling pharmaceuticals without authorisation, approval, marketing authorisation or consent where the Act or a directly applicable Community regulation requires an authorisation, approval, marketing authorisation or consent to handle pharmaceuticals;
- b) importing or exporting a transfusion product or plasma contrary to Section 24, paragraph 4 or failing to inform about realisation of import from a third country or about realisation of export to a third country as per Section 24, paragraph 7;
- c) placing on the market a medicinal product subjected to mandatory marketing authorisation pursuant to Section 25 or to marketing authorisation via Community centralised procedure pursuant to a directly applicable Community regulation<sup>24)</sup>, without such marketing authorisation being granted to this product, or by placing such medicinal product onto the market contrary to the conditions stipulated in the marketing authorisation;
- d) keeping, contrary to Section 78, paragraph 1, substances which have anabolic, anti-infectious, anti-parasitic, anti-inflammatory or hormonal effects or addictive substances or precursors, which may be used for the manufacture of veterinary products without being authorised to do so;
- e) preparing a medicinal product without being authorised to do so as per Section 79, paragraph 2; or
- f) dispensing or selling a medicinal product without being authorised to do so as per Section 82, paragraph 2 or 6.

(2) A natural person shall, as the person handling pharmaceuticals, commit an offence by:

- a) handling pharmaceuticals contrary to Section 7, paragraph 1 (b);
- b) using, in the delivery of health care, a medicinal product contrary to Section 8, paragraphs 1 to 5;
- c) using, in the delivery of veterinary care, a medicinal product contrary to Section 9, paragraphs 1 to 9 and paragraphs 11 to 15 or using a veterinary autogenous vaccine contrary to Section 72, paragraph 1 or 3;
- d) failing, as a person involved in a clinical trial, to observe the rules of good clinical practice as referred to in Section 56, paragraph 13 or of good clinical veterinary practice as referred to in Section 61, paragraph 1; or
- e) failing, as the submitter of a therapeutic programme for a medicinal product subjected to marketing authorisation via the centralised Community procedure, to ensure availability of the concerned medicinal product for the patients involved in the therapeutic programme in the period from marketing authorisation to the placement on the market contrary to a directly applicable Community regulation<sup>24)</sup>.

(3) A natural person shall, as the qualified person of a manufacturer of medicinal products, commit an offence by:

- a) failing to ensure, contrary to Section 66, paragraph 1, that each batch of the medicinal product is manufactured and controlled in compliance with this Act, the marketing authorisation dossier and the marketing authorisation, or contrary to Section 66, paragraph 3, failing to document this fact in a registry or in an adequate document dedicated to this purpose; or

b) failing, contrary to Section 66, paragraph 4, to ensure in the manufacture of investigational human medicinal products compliance with the requirements of good manufacturing practice or consistency with submitted documentation.

(4) A natural person shall, as the qualified person of a blood centre, commit an offence by failing to safeguard the collection, testing or processing of each unit of blood and blood component or the control, release, storage or distribution of each unit of a transfusion product or raw material for further production pursuant to Section 67, paragraph 7 (a).

(5) A natural person shall, as the person responsible for pharmacovigilance, commit an offence by failing to ensure:

a) the development and maintenance of a system referred to in Section 91, paragraph 2 (a), or in Section 95, paragraph 2, where veterinary medicinal products are concerned;

b) the preparation of reports pursuant to Section 91, paragraph 2 (b), or the preparation of reports pursuant to Section 95, paragraph 2, where veterinary medicinal products are concerned;

c) a reply to a request for the provision of additional information as per Section 91, paragraph 2 (c), or as per Section 95, paragraph 2, where veterinary medicinal products are concerned; or

d) the provision of information essential for the risk-benefit assessment of a medicinal product pursuant to Section 91, paragraph 2 (d), or pursuant to Section 95, paragraph 2, where veterinary medicinal products are concerned.

(6) A natural person shall, as an investigator, commit an offence by:

a) conducting a clinical trial in persons in whom it is prohibited by Section 52, paragraph 2;

b) failing to adopt an urgent measure to protect trial subjects pursuant to Section 56, paragraph 3;

c) failing to maintain documentation of a clinical trial in compliance with Section 56, paragraph 7; or

d) failing to observe the principles of good clinical practice referred to in Section 56, paragraph 13 or good clinical veterinarian practice referred to in Section 61, paragraph 1.

(7) A natural person shall, as a veterinarian, commit an offence by:

a) importing, contrary to Section 48, paragraph 3, a veterinary medicinal product referred to in Section 48, paragraph 2;

b) failing, contrary to Section 48, paragraph 6, to maintain, as the attending veterinarian, records on the import of veterinary medicinal products imported in compliance with Section 48, paragraph 2 or failing to store these records;

c) issuing a prescription for a veterinary autogenic vaccine contrary to Section 71, paragraph 2;

d) issuing a prescription for a medicated feedingstuff contrary to Section 73, paragraph 1 or Section 74, paragraph 1; or

e) prescribing, as the concerned attending veterinarian, a medicated feedingstuff contrary to Section 74, paragraph 4.

(8) A natural person shall, as a healthcare professional, commit an offence by failing to:

a) comply with the notification duty referred to in Section 90, paragraph 1 (a);

b) cooperate or provide access to documentation pursuant to Section 90, paragraph 1 (b); or

c) observe, in the use of medicinal products, the conditions of the risk management system pursuant to Section 90, paragraph 2.

(9) For an offence, a fine may be imposed of up to:

- a) 50 000 CZK, where an offence referred to in paragraph 5 (b) or (c), paragraph 6 (c) or paragraph 8 (b) is concerned;
- b) 100 000 CZK, where an offence referred to in paragraph 2 (b), paragraphs 3, 4 or 5 (a) or (d), paragraph 6 (a) or (b), paragraph 7 or 8 (a) or (c) is concerned;
- c) 500 000 CZK, where an offence referred to in paragraph 2 (a) is concerned;
- d) 1 000 000 CZK, where an offence referred to in paragraph 1 (b) or (d) to (f), paragraph 2 (c) or (d) or paragraph 6 (d) is concerned;
- e) 3 000 000 CZK, where an offence referred to in paragraph 1 (a) or (c) or paragraph 2 (e) is concerned.

(10) Where an offence referred to in paragraphs 3 to 6 are concerned, a ban on operation may be also imposed for the period of up to two years.

## **Section 109**

(1) A legal person shall not be liable for an administrative offence if it evidences that it has taken any effort as practicable to prevent the breach of the legal obligation.

(2) When establishing the amount of a fine imposed upon a legal person, the severity of the administrative offence, in particular the method of its committing, and its consequences and circumstances under which it has been committed, shall be taken into account.

(3) The liability of a legal person for an administrative offence shall be considered void, if the administrative authority fails to commence a procedure concerning the administrative offence within the period of two years of learning thereof, no later, however, within five years of the date when it has been committed.

(4) Administrative offences shall be, on the first level, considered by:

- a) the Institute, where administrative offences referred to in Section 13, paragraph 2 (i) are concerned;
- b) the Ministry of Health, where administrative offences referred to in Section 11 (e) are concerned;
- c) the Veterinary Institute, where administrative offences referred to in Section 16, paragraph 2 (g) are concerned;
- d) the regional veterinary administration, where administrative offences referred to in Section 17 (c) are concerned;
- e) the Ministry of Interior, the Ministry of Justice, the Ministry of Defence, and the Ministry of Finance, where administrative offences of operators of healthcare facilities within the jurisdiction of these Ministries are concerned.

(5) The liability for conduct within the scope of or in direct relationship with entrepreneurial activities of a natural person<sup>83)</sup> shall be governed by the provisions of this Act stipulating the liabilities and sanctions of a legal person.

(6) Fines shall be collected and levied by the competent customs authority. Revenues generated by fines shall be considered an income of the state budget.

<sup>83)</sup> Section 2, paragraph 2 of the Commercial Code.



## **TITLE VII COMMON PROVISIONS**

### **Section 110**

#### **Methods and amounts of reimbursement of pharmaceuticals**

The methods of reimbursement of pharmaceuticals from the public health insurance and amounts thereof shall be stipulated by a special legal regulation<sup>7)</sup>.

### **Section 111**

#### **Delegated jurisdiction**

The jurisdiction of a regional authority pursuant to this Act shall mean the execution of a delegated jurisdiction.

### **Section 112**

#### **Reimbursement of costs**

(1) The Institute or the Veterinary Institute shall collect reimbursement of costs for the conduct of expert activities upon request and for other expert activities stipulated by this Act.

(2) The person on whose request the expert activities are to be conducted shall be obliged to reimburse the costs incurred by the conduct of these activities to the Institute or to the Veterinary Institute. The implementing legal regulation stipulates the amount of reimbursement of costs of expert activities conducted upon request within the scope of powers of the Institute or the Veterinary Institute for individual types of applications and expert activities associated with the duration of marketing authorisation of medicinal products. The marketing authorisation holder shall, furthermore, cover the costs of activities of the Institute and the Veterinary Institute associated with the duration of marketing authorisation of medicinal products by means of annual maintenance fees, the marketing authorisation holder being obliged to pay the annual maintenance fee for the following calendar year by the end of the calendar year. Where the marketing authorisation holder fails to comply with its obligation to make the payment within the established timeline, the Institute or the Veterinary Institute shall invite the marketing authorisation holder to make the overdue payment within the period of 15 days of delivery of the invitation. The maintenance fee shall not be made for the calendar year in which the marketing authorisation has been granted. Where the marketing authorisation holder fails to make the payment within the period established for the overdue payment, he or she shall be obliged to pay the fee incremented by 50%.

(3) The Institute or the Veterinary Institute shall:

a) be entitled to require from the person on whose request the expert activities are to be performed a reasonable advance payment or, if appropriate, advance reimbursement of the costs, if it is known that the activities will be accomplished and what the approximate level of the costs will be; or

b) waive, upon request, the reimbursement of costs or part thereof, in the case of an adoption of marketing authorisation or activities in the public interest or activities whose implications can be of special importance for a wide scope of persons, in particular where:

1. orphan human medicinal products,

2. medicinal products intended solely for use in person under 18 years of age,
3. veterinary medicinal products intended for use in minority animal species or minority indications, which have been specified in compliance with the Commission and Agency guidance, or
4. activities conducted upon request of entities which enjoy the support pursuant to a directly applicable Community regulation<sup>84)</sup> are concerned.

(4) The Institute or the Veterinary Institute shall refund to the applicant:

a) the reimbursement of costs in full amount, if:

1. the applicant has reimbursed the costs without being obliged to, or
2. the required expert activity has not commenced;

b) upon request thereof a proportional amount of the reimbursed costs corresponding to the expert activities which have not been conducted prior to the end of the procedure; or

c) the difference between the paid amount of reimbursed costs and the amount of reimbursed costs to be paid pursuant to the implementing legal regulation as per paragraph 2.

(5) Reimbursement of costs referred to in paragraph 1 shall not be considered a budget income pursuant to a special legal regulation<sup>85)</sup> and shall be considered a revenue of a special account of the Institute or the Veterinary Institute. The funds on this account shall not be considered a budget income as referred to in a special legal regulation<sup>85)</sup>, but non-budgetary resources to be used by the Institute or the Veterinary Institute directly for their operation.

(6) Furthermore, the Institute or the Veterinary Institute shall be, within the scope of their jurisdiction, entitled to require a reimbursement of costs of the conduct of expert activities from a person who, by failure to meet or by breaching an obligation stipulated by this Act or imposed on the basis of this Act has caused the necessity to carry out such activities.

(7) The implementing legal regulation determines the reimbursements of costs, method of submission of applications for waivers or refunds of reimbursed costs or parts thereof and the scope of documentation to be submitted together with such applications.

<sup>84)</sup> E.g. Regulation (EC) No 726/2004 of the European Parliament and of the Council.

<sup>85)</sup> Section 6, paragraph 1 of Act No 218/2000 Coll., on Budgetary Rules and Amendments to Some Related Acts, as amended.

## **TITLE VIII TRANSITIONAL PROVISIONS**

### **Section 113 Transitional provisions**

(1) Procedures which have not been legally completed before the date of coming into force of this Act shall be completed pursuant to existing legal regulations. Where an application for marketing authorisation renewal compliant with existing legal regulations has been delivered to the concerned institute, the product shall be considered authorised until the date of coming into force of the decision on the application for renewal of the marketing authorisation.

(2) Where the marketing authorisation of a medicinal product has been renewed via a procedure commencing after October 30 2005 and completed prior to the coming into force of

this Act, the marketing authorisation of the medicinal product shall be considered renewed in compliance with this Act and shall be effective for an unlimited period of time. The Institute or the Veterinary Institute may, however, on grounds of justified reasons regarding pharmacovigilance, decide within the marketing authorisation renewal procedure even in this case about additional renewal for the following five years; such decision, however, may only be adopted once. The provisions of sentence one and sentence two shall be without prejudice to the possibility to revoke or suspend a marketing authorisation for reasons set forth in Section 34, paragraph 5 or 6.

(3) The marketing authorisation holder shall harmonise the packaging of a medicinal product authorised pursuant to existing regulations with the requirements of this Act and its implementing legal regulations within the maximum of five years of the date of coming into force of this Act, as part of either a variation to marketing authorisation or marketing authorisation renewal.

(4) The marketing authorisation holder shall ensure that data shown in the package leaflet of a human medicinal product authorised pursuant to existing legal regulations are made available for the blind and visually impaired pursuant to Section 37, paragraph 3 within the maximum of three years of the date of coming into force of this Act.

(5) For medicinal products authorised prior to the coming into force of this Act the three-year period referred to in Section 34, paragraph 3 shall commence as of the date of coming into force of this Act.

(6) The marketing authorisation holder of a medicinal product, which is compliant with the conditions stipulated by Section 30, paragraphs 1 to 3 and authorised pursuant to existing regulations, shall apply, by October 31 2010 at the latest, for a variation to the marketing authorisation of this medicinal product to ensure that the marketing authorisation is in compliance with the requirements set forth by this Act for the marketing authorisation of a traditional herbal medicinal product. Where the marketing authorisation holder fails to do so, the marketing authorisation of this medicinal product shall expire as of November 1 2010.

(7) The operator of a healthcare facility which, as of the date of coming into force of this Act, operates as a blood bank pursuant to Section 4, paragraph 7, shall notify the Institute to this effect within the period of three months of the date of coming into force of this Act.

(8) The Institute and the Veterinary Institute shall establish the quality system referred to in Section 13, paragraph 3 (l) and in Section 16, paragraph 3 (j) within the maximum period of one year of the date of coming into force of this Act.

(9) The obligation to reimburse the annual maintenance fee referred to in Section 112, paragraph 2 shall be applicable for the first time for the calendar year of 2008.

(10) The reimbursement of costs shall be waived in the case of an application for marketing authorisation of a veterinary medicinal product submitted no later than as of December 31 2008 where a transfer of a veterinary product<sup>18)</sup> to the category of veterinary medicinal products is concerned.

(11) The Institute and the Veterinary Institute established in compliance with the existing Act shall be administrative authorities with powers stipulated hereby.

(12) The provisions governing the dispensing of medicinal products also without medical prescription with a restriction (Section 39, paragraphs 1 and 4) shall apply from January 1 2009.

(13) The Institute shall establish a central repository of electronic prescriptions within the maximum period of one year of the date of coming into force of this Act.

#### **Section 114** **Delegating provisions**

(1) The Ministry of Health shall issue a decree to implement Section 4, paragraph 7, Section 24, paragraphs 2, 3, 4, 7 and 8, Section 67, paragraphs 2 and 4, Section 67, paragraph 5 (b) and (c), Section 67, paragraph 7 (b), Section 67, paragraphs 10 and 11, and Section 82, paragraph 2 (d) and (e).

(2) The Ministry of Health and the Ministry of Agriculture shall issue a decree to implement Section 2, paragraph 2 (c), Section 5, paragraph 4, Section 8, paragraphs 1 and 5, Section 23, paragraph 5, Section 23, paragraph 6, Section 26, paragraph 5 (l), Section 26, paragraph 7, Section 27, paragraphs 5, 7, 11 and 12, Section 28, paragraph 1 (c), Section 28, paragraph 3, Section 29, paragraph 2, Section 30, paragraphs 3 and 7, Section 32, paragraph 3, Section 33, paragraph 3 (g), item 4, Section 34, paragraphs 1 and 3, Section 35, paragraphs 2, 3 and 12, Section 36, paragraph 1, Section 37, paragraphs 1 to 3, 5 and 6, Section 38, Section 39, paragraph 4, Section 40, paragraph 2 (f), Section 40, paragraph 3, Section 44, paragraphs 3 and 9 (f), Section 45, paragraph 7 (b), Section 49, paragraph 5, Section 51, paragraph 2 (h), Section 52, paragraph 6, Section 53, paragraphs 1, 8, 12 and 13, Section 54, paragraph 1, Section 55, paragraphs 7 to 9, Section 56, paragraph 1 (a), Section 56, paragraphs 3 and 7, Section 57, paragraph 2, Section 58, paragraph 8, Section 59, paragraph 1, Section 60, paragraphs 2, 4, 5 and 9, Section 61, paragraph 2 (a) and (b), items 1 and 6, Section 61, paragraph 2 (c), Section 61, paragraph 4 (e), Section 63, paragraphs 1 and 6, Section 64 (j), (k) and (q), Section 66, paragraph 4, Section 69, paragraph 2, Section 70, paragraph 4, Section 71, paragraphs 2 and 6, Section 72, paragraph 1, Section 73, paragraph 9 (b), Section 74, paragraph 1 and 5, Section 75, paragraph 2, Section 76, paragraph 2, Section 77, paragraph 1 (e), (g), (h) and (i), Section 77, paragraphs 3 and 5 (a) and (b), Section 79, paragraph 1 (c), Section 79, paragraphs 2, 8 (a) and (c), Section 79, paragraph 10, Section 82, paragraph 1, Section 82, paragraph 3 (b), Section 82, paragraph 4, Section 83, paragraphs 1 to 3, Section 83, paragraph 5 (b), Section 84, paragraph 3, Section 85, paragraph 1, Section 86, paragraph 1, Section 91, paragraph 2 (b), Section 92, paragraphs 11 and 12, and Section 112, paragraph 2, paragraph 4 (c) and paragraph 7.

(3) The Ministry of Health, following prior discussions with the Ministry of Agriculture, the Ministry of Defence, the Ministry of Interior, the Ministry of Justice, and the Ministry of Finance, shall issue a decree to implement Section 80.

(4) The Ministry of Agriculture shall issue a decree to implement Section 9, paragraphs 3, 11 and 13, Section 48, paragraphs 2, 3 and 6, and Section 78, paragraphs 3 and 4.

#### **Section 115** **Repealing provisions**

The following is hereby repealed:

1. Act No 79/1997 Coll., on Pharmaceuticals and on Amendments to Some Related Acts,
2. Act No 129/2003 Coll., amending Act No 79/1997 Coll., on Pharmaceuticals and on Amendments to Some Related Acts,
3. Decree No 343/2003 Coll., on the list of plants used for pharmaceutical and therapeutic purposes.

### **Section 116**

Part One of Act No 149/2000 Coll., amending Act No 79/1997 Coll., on Pharmaceuticals and on Amendments to Some Related Acts, Act No 20/1966 Coll., on the Care of the People's Health, as amended, and Act No 455/1991 Coll., on Licensed Trades (Trade Licensing Act), as amended, is hereby repealed.

### **Section 117**

Part Seven of Act No 258/2000 Coll., on Public Health Protection and on Amendments to Some Related Acts, is hereby repealed.

### **Section 118**

Part Six of Act No 102/2001 Coll., on General Safety of Products and Amendments to Some Acts (Act on General Safety of Products), is hereby repealed.

### **Section 119**

Part Two of Act No 138/2002 Coll., amending Act No 40/1995 Coll., on Advertising Regulation and on the Amendments to Act No 468/1991 Coll., on the Operation of Radio and Television Broadcasting, as amended, and Act No 79/1997 Coll., on Pharmaceuticals and on Amendments to Some Related Acts, as amended, is hereby repealed.

### **Section 120**

Part Seventeen of Act No 309/2002 Coll., on Amendments to Acts Associated with the Adoption of the Act on Public Service and Remuneration of Public Service Staff and Other Staff of Administrative Bodies (Act on Public Service), is hereby repealed.

### **Section 121**

Part Eighty-Three of Act No 320/2002 Coll., on Amendments and Repeal of Some Acts in Association with the Dissolution of District Authorities, is hereby repealed.

### **Section 122**

Part Six of Act No 274/2003 Coll., amending some Acts Governing the Sphere of Public Health, is hereby repealed.

### **Section 123**

Part Four of Act No 228/2005 Coll., on the Control over Trade with Products the Holding of Which is Limited in the Czech Republic for Safety Reasons, and on Amendments to Some Acts, is hereby repealed.

#### **Section 124**

Part Three of Act No 74/2006 Coll., amending Act No 167/1998 Coll., on Dependency Producing Substances and on Amendments to Some Other Acts, as amended, Act No 258/2000 Coll., on Public Health Protection and on Amendments to Some Related Acts, as amended, and Act No 79/1997 Coll., on Pharmaceuticals and on Amendments to Some Related Acts, as amended, is hereby repealed.

#### **Section 125**

Letter (e), including footnote no. 3 in Section 18 of Act No 527/1990 Coll., on Inventions, Industrial Designs and Rationalisation Proposals as amended by Act No 116/2000 Coll. and by Act No 207/2000 Coll., shall read:

"e) in activities conducted with the subject of the invention for experimental purposes, including experiments and tests necessary pursuant to a special legal regulation<sup>3a)</sup> before the pharmaceutical is placed on the market.

3a) Act No 378/2007 Coll., on Pharmaceuticals and on Amendments to Some Related Acts (Act on Pharmaceuticals).".

The existing footnote no. 3 shall be marked as footnote no. 3b, including any references thereto.

#### **Section 126**

This Act comes into force on the day of its enactment.