LÆGEMIDDELSTYRELSEN
DANISH MEDICINES AGENCY

Guidelines on activities subject to a section 39 authorisation or a company registration

Note: The guideline has yet to be updated regarding regulation (EU) 2019/6 on veterinary medicinal products

Any company manufacturing, importing, exporting, storing, procuring, distributing, dispensing, splitting or packaging medicinal products or intermediate products must obtain authorisation from the Danish Medicines Agency according to section 39(1) and (2) of the Danish Medicines Act (a section 39 authorisation).

Any company manufacturing, importing and distributing active substances (API) intended to be used in the manufacturing of marketed medicinal products for human use must register with the Danish Medicines Agency pursuant to section 50A(1) of the Danish Medicines Act (API registration).

Any company brokering medicinal products between two parties which does not itself carry out the activities of wholesale distribution must register with the Danish Medicines Agency pursuant to section 41B(1) of the Danish Medicines Act (broker's registration).

Definitions of medicinal product, intermediate product, active substance and excipient are available in section 2 of the Danish Medicines Act. The definition of manufacturing and wholesale dealing activities etc. are available in the executive order on the manufacture and import of medicinal products and intermediate products as well as the executive order on distribution of medicinal products.

Types of section 39 authorisation

In practice, the Danish Medicines Agency grants three types of section 39 authorisation:

- *MIA (**M**anufacturing and **I**mportation **A**uthorisation for medicines and intermediate products)*
  Issued for complete or partial manufacture, import and/or analysis of intermediate products and medicinal products. The authorisation includes wholesale distribution of own finished and released medicinal products.

- *WDA (**W**holesale **D**istribution **A**uthorisation for wholesale distribution of medicines within the EU/EEA)*
  Issued for purchase, sale, receipt, storage and/or supply of finished medicinal products, batch certified (released) by a manufacturer within the EU/EEA. Wholesale distribution only covers trading between companies and not dispensing to end-users.

- *Retail authorisation (authorisation to retail sell medicines not exclusively reserved for pharmacies)*
  Issued for the retail sale of medicines not exclusively reserved for pharmacies to end-users. A distinction is made between over-the-counter medicines (including smoking cessation products), smoking cessation products only, v-marked medicines, medicinal gases and medicines for production animals.

Please note that a section 39 authorisation does not take into account whether or not the company is the marketing authorisation holder of the medicines the company is authorised to handle. A section 39 authorisation is issued to the company and describes the activities performed by the company.

Types of company registrations

In practice, there are two types of company registration:

- *Registration as manufacturer, importer and distributor of active substances*
  Registration is required for the manufacture, import and distribution of APIs intended for use in the manufacturing of medicinal products for human use covered by a marketing authorisation.

- *Registration as a broker of medicinal products*
  Registration is required for companies brokering medicinal products for human or veterinary use with a marketing authorisation within the EU/EEA.

Examples of activities subject to a section 39 authorisation or company registration are given below. Please note that this list is not exhaustive but only indicative - there may be exceptions from the below requirements for a section 39 authorisation or company registration.

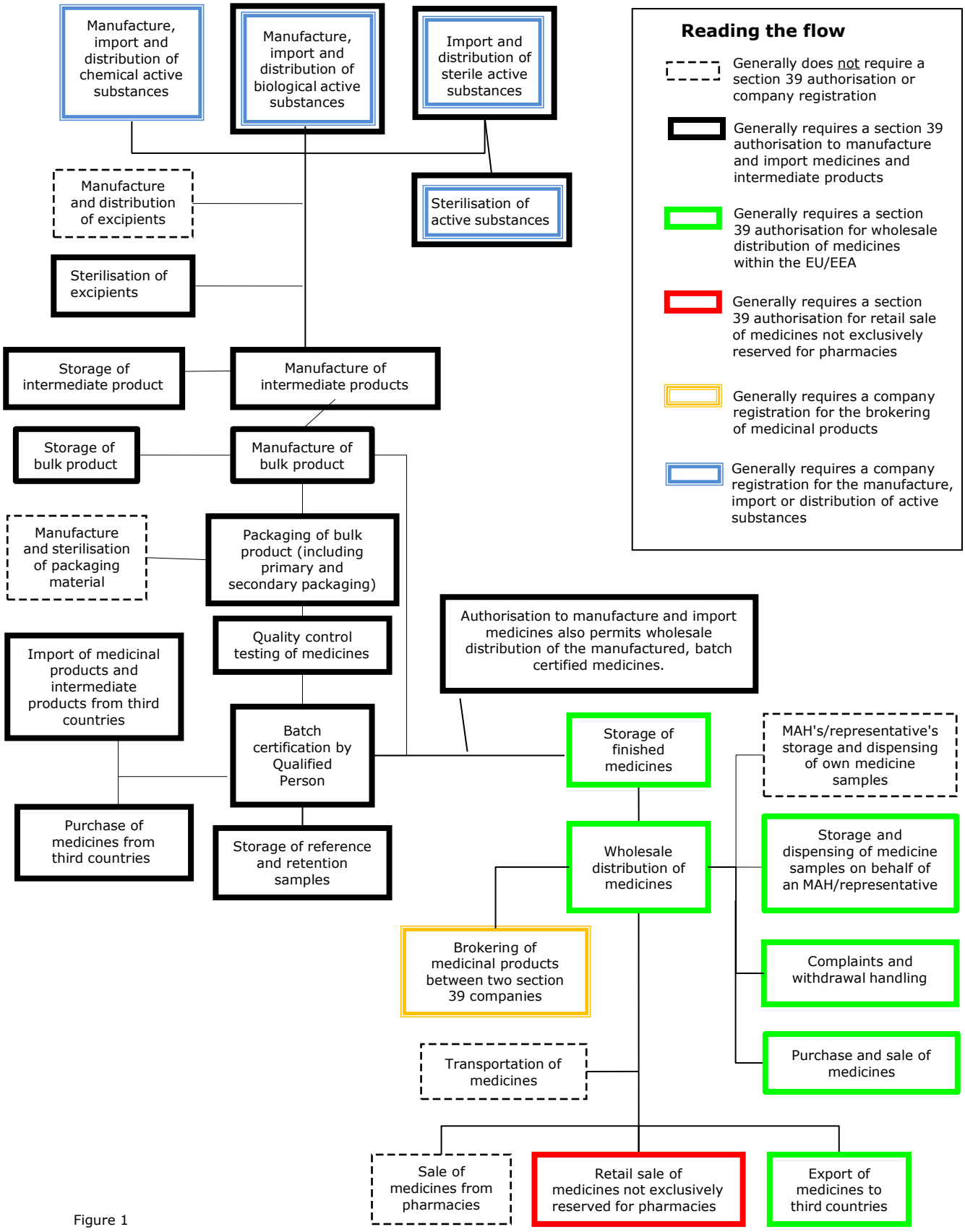
Manufacture, import and distribution of chemical active substances
Manufacture, import and distribution of biological active substances
Import and distribution of sterile active substances
Manufacture and distribution of excipients
Sterilisation of active substances
Sterilisation of excipients
Storage of intermediate product
Manufacture of intermediate products
Storage of bulk product
Manufacture of bulk product
Manufacture and sterilisation of packaging material
Packaging of bulk product (including primary and secondary packaging)
Quality control testing of medicines
Import of medicinal products and intermediate products from third countries
Batch certification by Qualified Person
Purchase of medicines from third countries
Storage of reference and retention samples
Authorisation to manufacture and import medicines also permits wholesale distribution of the manufactured, batch certified medicines.
Storage of finished medicines
MAH's/representative's storage and dispensing of own medicine samples
Wholesale distribution of medicines
Storage and dispensing of medicine samples on behalf of an MAH/representative
Brokering of medicinal products between two section 39 companies
Complaints and withdrawal handling
Transportation of medicines
Purchase and sale of medicines
Sale of medicines from pharmacies
Retail sale of medicines not exclusively reserved for pharmacies
Export of medicines to third countries
Reading the flow
Generally does not require a section 39 authorisation or company registration
Generally requires a section 39 authorisation to manufacture and import medicines and intermediate products
Generally requires a section 39 authorisation for wholesale distribution of medicines within the EU/EEA
Generally requires a section 39 authorisation for retail sale of medicines not exclusively reserved for pharmacies
Generally requires a company registration for the brokering of medicinal products
Generally requires a company registration for the manufacture, import or distribution of active substances

Figure 1

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General information

The handling of medicines covers the activities related to manufacturing, importing, exporting, storing, providing, dispensing, splitting, packaging and procuring (including buying, selling, receiving, storing and delivering) medicines or intermediate products as well as selling medicines by retail to the end-user. Companies which have outsourced the physical handling of medicines on a contractual basis to a contract acceptor, but which have the overall responsibility for the contract acceptor's (including companies which only buy and sell medicinal products) compliance with the GMP and GDP rules, must also hold a section 39 authorisation. It will appear from the section 39 authorisation if the company does not physically handle medicines at its address.

Figure 1 explained

Manufacture, import and distribution of chemical active substances (API)
The manufacture, import and distribution of chemical non-sterile APIs require a company registration, but generally not a section 39 authorisation. Import covers import from countries outside the EU/EEA (third countries), whereas distribution covers procurement, receipt, storage and supply within the EU/EEA.

Manufacture, import and distribution of biological active substances (API)
The manufacture, import and distribution of biological APIs require both a company registration and an MIA because a biological API is considered both an API and an intermediate product.

Import and distribution of sterile active substances (API)
The import and distribution of sterile APIs require both a company registration and an MIA because a sterile API is considered both an API and an intermediate product.

Sterilisation of active substances
Sterilisation of an API requires both a company registration and an MIA because an API is considered an intermediate product once it is sterile. A sterile API is therefore considered an API as well as an intermediate product.

Overview of the requirements to a section 39 authorisation and API registration in connection with the manufacture and import of APIs
The table below provides an overview of MIA, API registration, inspection and written confirmation in connection with the manufacture, import or distribution of various types of API.

Type of API	Manufacture or import requires an MIA	Manufacture, import or distribution requires API registration	Ongoing inspection by DKMA	Import requires written confirmation
Biological API (H/V) to medicine without MA	yes	no	yes	no
Biological API (H) to medicine with MA	yes	yes	yes	yes
Biological API (V) to medicine with MA	yes	no	yes	no
Chemical API (H/V) to medicine without MA	no	no	voluntary	no
Chemical API (H) to medicine with MA	no	yes	yes	yes
Chemical API (V) to medicine with MA	no	no	voluntary	no
Chemical sterile API (H/V) to medicine without MA	yes	no	yes	no
Chemical sterile API (H) to medicine with MA	yes	yes	yes	yes
Chemical sterile API (V) to medicine with MA	yes	no	yes	no

Figure 2. Overview of MIA, API registration, inspection and written confirmation for API
V = veterinary use, H = human use, MA = Marketing authorisation

Manufacture and distribution of excipients
Generally, the manufacture of excipients requires neither a section 39 authorisation nor a company registration. Excipients are used to manufacture a finished medicinal product, but are not the active substance contained in the medicine.

Sterilisation of excipients
Sterilisation of excipients requires an MIA, because the excipient is used in a sterile medicinal product.

Manufacture of intermediate products
The manufacture of intermediate products with one or several APIs requires an MIA. An intermediate product is a mixture of active substances and excipients intended for further processing into a medicinal product. Once an API is mixed with an excipient, it becomes an intermediate product.

Storage of intermediate product
Storage of intermediate products requires an MIA.

Manufacture of bulk product
The manufacture of bulk products requires an MIA. In this context, bulk means a product that has completed all processing stages up to, but not including, final packaging.

Storage of bulk product
Storage of bulk products requires an MIA.

Packaging of bulk product (including primary and secondary packaging)
The packaging of bulk requires an MIA. Packaging includes all processing stages, including filling and labelling, which a bulk product has to undergo in order to become a medicinal product in its final packaging. There are two stages of packaging; primary and secondary packaging:

- Primary packaging is the packaging process where the bulk product is enveloped by a packaging material in direct contact with the bulk product - e.g. filling tablets into tablet bottles or blister packs, filling injection fluid into ampoules etc.
- Secondary packaging is the packaging process where the packaging material is not in contact with the bulk product - e.g. the packaging of blister cards in cartons, labelling of ampoules, vials, etc.

Repackaging of medicinal products also requires an MIA, regardless of whether it is the primary or secondary packaging that is being repackaged. The replacement of a package leaflet or additional labelling also requires an MIA, in practice for secondary packaging.

Manufacture and sterilisation of packaging material
Generally, the manufacture of packaging material does not require a section 39 authorisation, regardless of whether the packaging material is intended for sterile or non-sterile medicines. The responsibility to ensure that the packaging material complies with the requirements of, for example, a marketing authorisation lies with the manufacturer's Qualified Person who releases the finished medicine (batch certification). The manufacturer of packaging material is likely to be audited by the pharmaceutical manufacturers, which the packaging material is supplied to, but the manufacturer of packaging material will not be inspected by drug regulatory authorities.

Quality control testing of medicines
The testing of finished medicinal products requires an MIA. Therefore, analytical laboratories that test finished medicinal products must hold an MIA. Companies that exclusively test medicines are not required to have a Qualified Person.

Import of medicinal products and intermediate products from third countries
The import of medicinal products or intermediate products from third countries requires an MIA because the import of medicines is considered a manufacturing activity. Import can be divided into two parts; physical receipt of medicines from third countries and batch release of imported medicines in accordance with the GMP executive order. Companies physically receiving medicines from third countries (the importer) are responsible for batch certification (release) of the medicinal products or intermediate products before further distribution within the EU/EEA. The release may be handled by another company than the importer, for example if company A buys another company B to handle the physical receipt while company A handles the release. In such cases, both companies must have an MIA, because both companies perform manufacturing activities in connection with the import.

If a company releases medicines within the EU/EEA and then sends them to a third country, the medicines must be batch certified (released) again if they are imported into the EU/EEA again.

Purchase of medicines in a third country
Purchase of medicines from companies in a third country intended for the EU/EEA market, including medicines for compassionate use, requires an MIA. This also applies to medicines physically located in the EU/EEA. Purchase from the MRA countries Australia, Canada, Japan, New Zealand and Switzerland also requires an MIA because these countries are also third countries.

Storage of medicines owned by a company in a third country requires an MIA. The reason is that medicines sold by a company from a third country must be released for the EU/EEA market after the ownership has been passed to the EU/EEA company. Consequently, the medicines are not released for the EU/EEA market until this last release has taken place.

Batch certification by Qualified Person
Batch certification (release) requires an MIA. Batch certification must be handled by a Qualified Person within the EU/EEA, and once the medicines have been batch certified, they are considered batch certified for release to the EU/EEA market. This means that the medicines do not have to be released again if they are distributed within the EU/EEA.

Storage of reference and retention samples
Storage of reference and retention samples is part of the manufacturing process and therefore requires an MIA. A site address, which is exclusively authorised for wholesale distribution of medicines, cannot take over the responsibility for storing these samples. If a company wants to cease the manufacture of medicines, the company must maintain its MIA for as long as the manufacturer is responsible for the storage of reference and retention samples.

Pursuant to Annex 19, items 7.1 and 8.1 in the EU GMP rules, reference samples must be stored at the manufacturer of the original product and retention samples should be stored at the site where the Qualified Person released the product. Section 26 of the GMP executive order further specifies that reference samples of the medicine must be stored for at least one year after the expiry date. Reference samples of an API used in the finished product must be stored for at least two years after manufacture of the medicine.

Authorisation to manufacture and import medicines also permits wholesale distribution of the manufactured, batch certified medicines
An MIA also authorises wholesale distribution of the medicines which the company has itself manufactured and released (own manufactured medicines). However, the right to distribute the manufactured medicines by wholesale only covers the site address holding the MIA. If the company wishes to store its products at other addresses than the ones indicated on the MIA, the company must have a WDA covering the storage addresses in question.

Storage of finished medicines
Storage of finished medicinal products which have been batch certified (released) by a Qualified Person within the EU/EEA requires a WDA. Storage of medicines manufactured by the company itself or released at its own address is covered by the company's MIA. If a company stores products that the company does not manufacture or release at its own address, it must hold a WDA in addition to its MIA. This also applies if a Danish branch stores medicines manufactured and batch certified (released) by a parent company abroad.

Wholesale distribution of medicines
Wholesale distribution (or wholesale dealing) means the activities associated with the procurement, purchase, sale, receipt, storage or supply of medicines within the EU/EEA as well as the export of medicines to third countries. Wholesale distribution of medicines manufactured by the company itself is covered by the company's MIA. A WDA is required to wholesale deal medicines, which the company has not itself manufactured. Please note that when medicines are received from other EU/EEA countries, they must be accompanied by a control report from the company responsible for having released the medicine.

MAH's/representative's storage and dispensing of own medicine samples
The marketing authorisation holder (MAH) or his representative has the right to store and dispense own medicine samples in accordance with the Danish executive order on distribution of samples of medicinal

products. The Danish Medicines Agency trusts that the MAH or his representative stores the medicine samples in compliance with the storage conditions applicable to the medicinal product in question. If the MAH or representative outsources the storage and dispensing of their medicine samples to another company, the MAH/representative must make sure that the company has a WDA covering storage and dispensing of medicine samples.

Storage and dispensing of medicine samples on behalf of an MAH/representative
A WDA is required to store and dispense medicine samples on behalf of an MAH or his representative.

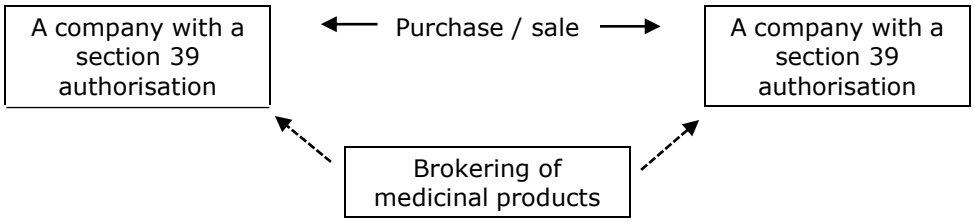
Complaints and withdrawal handling
The handling of product defects, complaints and withdrawals of medicines are covered by both the MIA and the WDA and form part of the general GMP and GDP responsibilities. Companies exclusively engaged in the handling of approaches or investigations of complaints and withdrawal of defective products must hold a WDA. Generally, a WDA is not required if the company only receives information about product defects, complaints and withdrawals for the purpose of forwarding it immediately to another company as the responsibility to ensure that the information is redistributed lies with the company that is to process the information.

Purchase and sale of medicines
Purchase of finished medicines in the EU/EEA requires a WDA. As regards the purchase of medicines in a third country, please see the section above *"Purchase of medicines in a third country".*
Wholesalers exclusively engaging in the purchase and sale of medicinal products can be divided into two types:

- Order processing units, which own medicinal products for a longer period of time and which are therefore GDP responsible for their medicinal products while they are stored at wholesalers. In this case, the wholesaler is a contract acceptor of the order processing unit. The order processing unit enters into contracts* with all wholesalers storing the order processing unit's medicinal products, and audits must be conducted of the wholesalers. The order processing unit may pay for an external audit. Wholesalers storing medicinal products for the order processing unit must be listed in Annex 2 of the order processing unit's WDA (does not apply to foreign contract acceptors, see current practice).
- Order processing units which do not own the medicinal products for a longer period of time, i.e. the order processing unit sells the medicines *immediately* (typically on the same day) after they were purchased. These order processing units are not GDP responsible for the medicinal products, because in practice the order processing unit does not own the medicinal products (for a longer period of time), while they are stored at wholesalers. The order processing unit's GDP tasks are only to ensure that they are dealing with authorised companies and complying with the requirements for documentation of purchase and sale. An order processing unit selling the medicinal products immediately after they were purchased has no contract acceptors listed in Annex 2 and has no obligation to enter into a contract* with or conduct an audit of the wholesalers that they purchase from and sell to.

*) This refers only to the requirement for a contract according to section 33 of the executive order on distribution of medicinal products and not any other legal requirements for a contract.

Brokering of medicinal products
A broker's registration is required when a company engages in the buying and selling of medicines, but is not involved in wholesale dealing activities (e.g. purchase, sale, receipt, storage and supply). Brokering does not include physical handling of medicinal products, but consists of dealing independently and on behalf of another legal or natural person. Registration is not required when dealing on behalf of a separate legal entity, e.g. a parent company or the like. Registration is required for the brokering of medicines for human and veterinary use with a marketing authorisation within the EU/EEA. Brokers of magistral medicinal products, medicines for non-clinical trials and clinical trials, medicated feed and inactivated and non-inactivated immunological veterinary medicines are not subject to registration. A section 39 authorisation is not required for the routing or arranging of orders between two section 39 companies, as long as no GDP activities take place at the broker.



Transportation of medicines
A transportation provider that only transports medicinal products does not need a section 39 authorisation. Nor is a section 39 authorisation required if the medicinal products are not transported directly from A to B, but are carried e.g. via a transportation hub and stored for a short period (for example during the weekend). Any unpacking or repacking of the medicinal product during transportation must not take place. The supplying wholesale distributor is responsible for ensuring that the medicinal products are transported in compliance with the GDP rules. Thus, the supplying wholesale distributor must ensure that the medicinal products are protected against breakage, adulteration and theft, and that temperature conditions are maintained within acceptable limits during transport. The supplying wholesale distributor must also ensure that own carriers and/or the transportation provider used comply with this practice. The requirements applying to transportation are described in chapter 9 of guidelines on good distribution practice of medicinal products for human use

Sale of medicines from pharmacies
Pharmacies are not covered by the requirement for a section 39 authorisation, but are - by virtue of their pharmacy licence - authorised to sell medicines by retail.

Retail sale of medicines
Retail sale of medicines that are not exclusively reserved for pharmacies requires a retail authorisation. The list of medicines not exclusively reserved for pharmacies can be found on the website of the Danish Medicines Agency under Over-the-counter medicines

Export of medicines to third countries
Export of medicines to third countries requires a WDA. However, export of medicinal products manufactured by your own company is included in the MIA.

More information about section 39 authorisations and company registrations
More information about application for the different types of section 39 authorisation:

1. Application for authorisation to manufacture and import medicines and intermediates
2. Application for authorisation to wholesale distribute medicines within the EU/EEA
3. Application for authorisation of retail distribution of OTC medicines

More information about the different types of company registration is available under

1. Registration as manufacturer, importer and distributor of active substances (APIs)
2. Registration as a broker of medicinal products

More information on the general requirements and deadlines for applications for manufacture, wholesale and retail authorisations is available under Guidelines on requirements and deadlines for applications for company authorisations

If you have questions to these guidelines, please contact Company Authorisations on telephone +45 4488 9779 or by email to virksomhedstilladelse@dkma.dk

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