Ref: NCR 2/1/8 S/F 9

LEGISLATIVE COUNCIL BRIEF

Dangerous Drugs Ordinance (Chapter 134)

DANGEROUS DRUGS ORDINANCE (AMENDMENT OF FIRST SCHEDULE) ORDER 2014

INTRODUCTION

At the meeting of the Executive Council on 24 June 2014, the Council **ADVISED** and the Chief Executive **ORDERED** that the Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2014, at **Annex A**, be made under section 50 (1) of the Dangerous Drugs Ordinance (the Ordinance) (Chapter 134), to impose control on methoxetamine (MXE) and relevant derivatives.

JUSTIFICATIONS

2. The chemical structure of MXE resembles closely that of ketamine. Its generic definition, as described in **Annex B**, represents a group of synthetic chemicals that exhibit psychoactive properties.

3. According to the Advisory Council on the Misuse of Drugs (ACMD)[1] of the United Kingdom (UK), the effects of MXE are similar to those of ketamine (hallucinations, drowsiness and dissociative effects), with additional toxicity including agitation, other stimulant effects such as tachycardia (fast heart rate) and cerebellar features such as ataxia (unsteadiness on the feet). On the other hand, its hypertension effect is greater than what would generally be expected with ketamine.

4. According to ACMD, MXE has no recognized legitimate medical or chemical use beyond potential research use. Although there is no registered pharmaceutical product containing MXE in Hong Kong,

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[1] Source – ACMD Report dated 18 October 2012.

two pharmaceutical products containing tiletamine, a derivative related to MXE, are registered for veterinary use. As regards trade declarations for MXE and relevant derivatives, there were only 28 import declarations and 26 export declarations for tiletamine between 1 January 2010 and 15 April 2014. The Administration has not encountered any seizure cases involving MXE and relevant derivatives. However, intelligence suggests that these substances are readily available through the internet and some young people are aware of its existence and effects.

5. In response to potential health concerns, various jurisdictions[2] have already imposed legislative control on MXE. Among them, the UK has adopted a more robust approach by controlling the generic form of MXE, i.e. all known relevant derivatives, instead of the specific substance only. However, taking into account the relatively low abusive potential of tiletamine and its relevant pharmaceutical use, the UK has exempted the substance from legislative control.

6. In Hong Kong, the generic definition of MXE contains five substances already controlled under Part I of the First Schedule to the Ordinance, namely eticyclidine, ketamine, phencyclidine, rolicyclidine and tenocyclidine. Separately, tiletamine is controlled under the Pharmacy and Poisons Ordinance (PPO) (Cap. 138) and its subsidiary legislation. Save for these substances, MXE and any relevant derivatives as set out in **Annex B** are not subject to any legislative control in Hong Kong.

THE PROPOSAL

7. The generic definition as described in **Annex B** captures a wide variety of synthetic chemicals. In order to enable the law enforcement agencies of Hong Kong to respond to rapid changes in the drug situation effectively, we propose to adopt a more stringent approach in controlling MXE in Hong Kong along the UK model, i.e. to control all relevant derivatives. This would be more effective in preventing drug traffickers from circumventing the law by simply making minor modifications to the chemical structure of the substance.

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[2] These jurisdictions include Australia, Austria, Denmark, Germany, Greece, Hungary, Italy, Portugal, Russia, Sweden, Switzerland, Turkey and the UK, as well as some states in the USA.

8. As set out in paragraph 6 above, the generic definition of MXE contains five substances already controlled by Part I of the First Schedule to the Ordinance, namely eticyclidine, ketamine, phencyclidine, rolicyclidine and tenocyclidine. In line with established practice, we propose to continue to control these substances using relevant existing provisions.

9. Based on the UK model, we recommend to exclude tiletamine from the proposed control of the Ordinance in the current exercise. This proposal has taken into account the relatively low abusive potential of tiletamine and its pharmaceutical use in Hong Kong. Locally, registered pharmaceutical products which contain tiletamine are used by certain organisations which deal with wild animals and veterinary clinics for the restraint of or anaesthesia in the animals. Specifically, there is no suitable alternative in terms of its medical application in some wild animals. Accordingly, it would be more appropriate to exclude tiletamine from the current legislative exercise, but it would continue to be controlled under the PPO (paragraph 6 above), which provides a specific control mechanism for pharmaceutical products.

10. Under the Ordinance, substances included in Part I of the First Schedule are dangerous drugs and are subject to the control of a licensing scheme administered by the Department of Health (DH). As stipulated under the Ordinance, the manufacture, import, export, as well as supply of these substances will require licences from DH. Illicit trafficking and manufacturing of the substances will be subject to a maximum penalty of life imprisonment and a fine of $5 million. Possession, consumption and supply of the substances would also constitute criminal offences.

THE ORDER

11. The Order, at **Annex A**, seeks to add "MXE and relevant derivatives" (as specified in **Annex B)** to Part I of the First Schedule to the Ordinance.

LEGISLATIVE TIMETABLE

12. The legislative timetable will be –

Gazettal of the Order	4 July 2014
Tabling at the Legislative Council for negative vetting	9 July 2014
Commencement date of the Order	28 November 2014

IMPLICATIONS OF THE PROPOSAL

13. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It will not affect the current binding effect of the Ordinance. It has no economic, productivity or environmental implications. On the other hand, it would help to prevent potential health concerns and would have insignificant sustainability implication. In addition, apart from inflicting health damage to the abuser, drug abuse is also often found to have a profound impact on an abuser's family, e.g. causing mixed emotions such as anger and frustration on family members, and giving rise to family financial crisis after paying off relevant drug debts. In this connection, the proposal would help to prevent possible family problems and tension that may be aroused by drug-abusing family members. The additional workload and financial implications arising from the implementation of the proposal are expected to be minimal and any additional requirements will be absorbed by the relevant bureaux and departments with existing resources.

PUBLIC CONSULTATION

14. We have consulted relevant traders, as well as licensees of the Ordinance, the Control of Chemical Ordinance (Cap. 145) and the PPO. They raised no objection to the proposed control of MXE and relevant derivatives with the exclusion of tiletamine.

15. We have also consulted the Action Committee Against Narcotics and the Panel on Security of the Legislative Council on 27 March and 13 May 2014 respectively. They supported the proposal.

PUBLICITY

16. The Order will be published in the Gazette on 4 July 2004. A press release will be issued on 2 July 2014, and a spokesperson will be available for answering media enquiries.

ENQUIRIES

17. Any enquiries concerning this brief can be directed to the following officer –

Miss Rosalind Cheung
Principal Assistant Secretary for Security (Narcotics)1
Tel. No.: 2867 5676

Narcotics Division
Security Bureau
July 2014

Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2014

(Made by the Chief Executive under section 50(1) of the Dangerous Drugs Ordinance (Cap. 134) after consultation with the Executive Council)

1. Commencement

This Order comes into operation on 28 November 2014.

2. Dangerous Drugs Ordinance amended

The Dangerous Drugs Ordinance (Cap. 134) is amended as set out in section 3.

3. First Schedule amended

(1) First Schedule, Part I, paragraph 1(a), after item "4-Methylthioamphetamine"—

Add

"1-Phenylcyclohexylamine".

(2) First Schedule, Part I, paragraph 1(l)(iii)—

Repeal the full stop

Substitute a semicolon.

(3) First Schedule, Part I, after paragraph 1(l)—

Add

"(m) any compound (not being tiletamine or a compound for the time being specified in subparagraph (a)) structurally derived from 1-phenylcyclohexylamine or 2-amino-2-phenylcyclohexanone by modification in any of the following ways—

(i) by substitution at the nitrogen atom to any extent with alkyl, alkenyl or hydroxyalkyl groups;

(ii) by replacement of the amino group with a 1-piperidyl, 1-pyrrolidyl or 1-azepyl group, whether or not the nitrogen containing ring is further substituted with one or more alkyl groups;

(iii) by substitution in the phenyl ring to any extent with amino, alkyl, hydroxy, alkoxy or halide substituents, whether or not further substituted in the phenyl ring to any extent;

(iv) by substitution in the cyclohexyl or cyclohexanone ring with one or more alkyl substituents;

(v) by replacement of the phenyl ring with a 2-thienyl ring.".

Carrie Lam

Acting Chief Executive

2014 26th June

Explanatory Note

This Order amends Part I of the First Schedule to the Dangerous Drugs Ordinance (Cap. 134) in order to impose control on methoxetamine and relevant derivatives, which are capable of being abused.

Annex B

Methoxetamine (MXE) and relevant derivatives

1-Phenylcyclohexylamine or any compound structurally derived from 1-phenylcyclohexylamine or 2-amino-2-phenylcyclohexanone by modification in any of the following ways -

(a) by substitution at the nitrogen atom to any extent with alkyl, alkenyl or hydroxyalkyl groups, or replacement of the amino group with a 1-piperidyl, 1-pyrrolidyl or 1-azepyl group whether or not the nitrogen containing ring is further substituted with one or more alkyl groups;

(b) by substitution in the phenyl ring to any extent with amino, alkyl, hydroxy, alkoxy or halide substituents, whether or not further substituted in the phenyl ring to any extent;

(c) by substitution in the cyclohexyl or cyclohexanone ring with one or more alkyl substituents; and

(d) by replacement of the phenyl ring with a 2-thienyl ring.

Note

In line with established practice, we propose to continue to control eticyclidine, ketamine, phencyclidine, rolicyclidine, tenocyclidine, and any compound for the time being specified in paragraph 1(a) of Part I under Schedule I to the Dangerous Drugs Ordinance (Cap.134), using the relevant existing provisions.

In addition, in view of its relatively low abusive potential and its pharmaceutical use, tiletamine, which is controlled under the Pharmacy and Poisons Ordinance (Cap.138), would be excluded from the current legislative exercise.