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Panel on Security

Updated background brief prepared by the Legislative Council Secretariat for the meeting on 6 February 2018

Amendments to the schedules to the Dangerous Drugs Ordinance and Control of Chemicals Ordinance

Purpose

This paper provides background information on the Dangerous Drugs Ordinance (Cap. 134) ("DDO") and summarizes the past discussions by the Panel on Security ("the Panel") relating to the legislative amendments to the First Schedule to DDO since the Fourth Legislative Council ("LegCo").

Background

2. DDO, which was first enacted in the 1960s, is the principal legislation dealing with dangerous drugs. Under DDO, 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"). DDO is enforced by the Police, the Customs and Excise Department ("C&ED") and DH. The Police and C&ED are responsible for enforcing DDO in respect of trafficking, manufacture, and other non-medical use of dangerous drugs, while DH is responsible for licensing of import, export, manufacture, sale and supply of dangerous drugs for medical purposes.

Deliberations of the Panel

Inclusion of a substance under legislative control

3. Noting that many new types of synthetic drugs had emerged in recent years, members expressed concern about how the Administration assessed

whether a new drug was prevalent in Hong Kong. Members also expressed concern whether the Administration's proposal to include a substance under DDO could catch up with the emergence of new drugs.

4. According to the Administration, it was keeping track of emergence of new drugs in different areas, including the latest recommendations of the Expert Committee on Drug Dependence ("ECDD") of the World Health Organization and the United Nations Commission on Narcotic Drugs ("UNCND"), as well as reports on the drug situation in other jurisdictions, in considering proposals for legislative control of any new psychotropic substances. The objective was to bring newly emerging dangerous drugs under control before they became prevalent in Hong Kong.

5. Some members were of the view that the inclusion of new drugs in the list of dangerous drugs should mainly be based on the drug situation in Hong Kong. There was no need for the Administration to wait for the recommendations of ECDD or UNCND to propose amendments to DDO.

6. The Administration advised that DDO was reviewed on a regular basis. Besides keeping track of the latest recommendations of ECDD and UNCND as well as findings of other jurisdictions, the Administration would also monitor the latest drug trend in Hong Kong, notably through analysis of information obtained under the Central Registry of Drug Abuse as well as through the exchange of intelligence with other jurisdictions and attending international conferences on drug abuse. The Police and C&ED had all along been working closely with the customs authorities and law enforcement agencies of other places to combat transnational drug trafficking activities. Information and intelligence were regularly exchanged. Where necessary, legislative amendments would be introduced to bring new drugs under control. There had been past examples of new drugs proposed for addition to the list of dangerous drugs in Hong Kong before a recommendation for control by international bodies.

Regulation of substances under the Dangerous Drugs Ordinance

7. Some members sought clarification as to whether a person who had brought certain substances before they were included in the First Schedule to DDO would be liable for prosecution, if that person was still in possession of the substances after the legislative proposal was implemented.

8. The Administration explained that after any substances were included in the First Schedule to DDO, illicit trafficking, manufacturing, possession, consumption, supply, import and export of the substances would be an offence

under DDO. The import and export of the substances would require a licence issued by DH.

Pharmaceutical products containing substances classified as dangerous drugs

9. Some members were concerned whether a person who brought a small quantity of pharmaceutical product containing substances in Part I of the First Schedule to DDO into Hong Kong for personal use would need to obtain a certificate issued by a medical practitioner and submit an application to DH for prior approval.

10. Members were advised that under the Import and Export (General) Regulations (Cap. 60A), the import licensing requirement did not apply to bringing a reasonable quantity of relevant pharmaceutical products into Hong Kong for personal use. For substances in Part I of the First Schedule to DDO, they were subject to the control of a licensing scheme administered by DH.

11. Information was sought on whether substances purchased online from a place outside Hong Kong for own medical use would be subject to the same requirements under law. According to the Administration, the licensing requirement applied to the import of dangerous drug listed in Part I of the First Schedule to DDO. LEAs would examine the circumstances of each case and seek advice from the Department of Justice, when necessary.

Publicity on the harmful effects of new dangerous drugs

12. Some members were concerned about the Administration's publicity efforts on the harmful effects of new dangerous drugs and expressed the view that publicity drives should be launched by the Administration to educate the public on such harmful effects before the Administration's proposed legislative amendments were enacted. The Administration stressed that the serious harms caused by drugs were publicized as part of its on-going anti-drug work.

Relevant papers

13. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
31 January 2018

Appendix

Relevant papers on amendments to the schedule to the Dangerous Drugs Ordinance and Control of Chemicals Ordinance

Committee	Date of meeting	Paper
Panel on Security	11.11.2010 (Item I)	Agenda Minutes
	13.5.2014 (Item V)	Agenda Minutes
	10.4.2015 (Item VI)	Agenda Minutes
	1.3.2016 (Item VII)	Agenda Minutes
	14 March 2017 (Item VI)	Agenda Minutes

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