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LEGISLATIVE COUNCIL BRIEF

Dangerous Drugs Ordinance (Chapter 134)

DANGEROUS DRUGS ORDINANCE (AMENDMENT OF FIRST SCHEDULE) ORDER 2017

INTRODUCTION

At the meeting of the Executive Council on 25 April 2017, the Council ADVISED and the Chief Executive ORDERED that the Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2017 (the Order), at the **Annex**, should be made under section 50(1) of the Dangerous Drugs Ordinance (the Ordinance) (Cap. 134), to impose control on phenazepam, MT-45 and 4,4'-DMAR[1].

JUSTIFICATIONS

Phenazepam

2. According to the report of the 37th meeting of the Expert Committee on Drug Dependence (ECDD) of the World Health Organization (WHO) published in November 2015, phenazepam belongs to the same family of medicines to which diazepam, oxazepam and temazepam[2] belong. Phenazepam was first synthesized and developed in 1975 in the former Soviet Union where it was later prescribed to treat sleep disorder, anxiety, alcohol use disorder and epilepsy. It is more potent than diazepam and has more severe and longer lasting adverse effects. At a relatively high dose, phenazepam induces muscle hypotonia, deep sleep and coma. Phenazepam has severe toxicity when concomitantly used with other central nervous system depressant drugs, especially opioids and alcohol, which increase the risk of respiratory depression and death. Various overseas fatal cases were associated with

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[1] MT-45 is the common name of 1-Cyclohexyl-4-(1,2-diphenylethyl)piperazine. 4,4'-DMAR is the common name of 4-Methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine.

[2] Diazepam, oxazepam and temazepam have been included in the First Schedule to the Ordinance.

phenazepam, mostly in combination with other central nervous system depressant drugs. Phenazepam is available as tablets, injectable solutions and transdermal patches.

3. According to the Advisory Council on the Misuse of Drugs (ACMD) of the United Kingdom (UK), the potency of phenazepam is around five times of that of diazepam and has a higher risk of overdose. In addition, discontinuation after prolonged use can lead to such withdrawal syndromes as anxiety, insomnia, tremor and potentially convulsions.

4. During the 59th Session of United Nations Commission on Narcotic Drugs (UNCND) held in March 2016, members adopted the ECDD's recommendation to place phenazepam under international control.

5. In Hong Kong, phenazepam is subject to control under the Pharmacy and Poisons Ordinance (Cap. 138). Currently, there is no registered pharmaceutical product containing this substance in Hong Kong. Local seizures of phenazepam by law enforcement agencies, as examined by the Government Laboratory, included 19 426 tablets in 2013, 4 934 tablets in 2014, 133 tablets in 2015, and 1 251 tablets in the first three quarters of 2016. As regards trade declarations, there is no record of import and export of this substance since January 2012.

MT-45

6. According to the report of the 37th meeting of the ECDD of the WHO published in November 2015, use of MT-45 has toxic consequences including respiratory depression, unconsciousness, paraesthesia, balance and vision disturbances, as well as persistent hearing loss. A total of 28 analytically confirmed deaths were associated with MT-45 in Sweden between 2013 and 2014. Users report using MT-45 via several different routes of administration including oral, insufflation, inhalation and rectally.

7. According to the ACMD of the UK, MT-45 is a synthetic opioid which has a high addictive potential and abuse liability. The potency of MT-45 is comparable to morphine[3].

[3] Morphine has been included in both the First Schedule to the Ordinance and the Poison List set out in Schedule 10 to the Pharmacy and Poisons Regulations (Cap. 138A).

8. During the 59th Session of the UNCND held in March 2016, members adopted the ECDD's recommendation to place MT-45 under international control.

9. Currently, MT-45 is not controlled in Hong Kong. There is no record of local seizure of MT-45 by law enforcement agencies. MT-45 does not have any recognized medical use and there is no registered pharmaceutical product containing this substance in Hong Kong. As regards trade declarations, there is no record of import and export of this substance since January 2012.

4,4'-DMAR

10. According to the report of the 37th meeting of the ECDD of the WHO published in November 2015, symptoms in users of 4,4'-DMAR include agitation, hyperthermia, foaming at the mouth, breathing problems and cardiac arrest. A total of 32 analytically confirmed deaths associated with 4,4'-DMAR were reported by Hungary, Poland and the UK between 2013 and 2014. As a tablet or powder, common routes of administration for 4,4'-DMAR are nasal insufflation and oral administration.

11. According to the ACMD of the UK, 4,4'-DMAR is a novel psychoactive substance first detected in Europe in December 2012 and has since caused deaths in Europe, including the UK and most notably in Northern Ireland.

12. During the 59th Session of the UNCND held in March 2016, members adopted the ECDD's recommendation to place 4,4'-DMAR under international control.

13. Currently, 4,4'-DMAR is not controlled in Hong Kong. There is no record of local seizure of 4,4'-DMAR by law enforcement agencies. 4,4'-DMAR does not have any recognized medical use and there is no registered pharmaceutical product containing this substance in Hong Kong. As regards trade declarations, there is no record of import and export of this substance since January 2012.

THE PROPOSAL

14. We propose to amend Part I of the First Schedule to the Ordinance to impose control on phenazepam, MT-45 and 4,4'-DMAR.

15. 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. The import, export, supply and manufacture of these substances will require respective licences issued by the Department of Health. Trafficking and manufacturing of the substances in contravention of the Ordinance will be subject to a maximum penalty of life imprisonment and a fine of $5 million. Possession and consumption of the substances in contravention of the Ordinance will be subject to a maximum penalty of seven years' imprisonment and a fine of $1 million.

THE ORDER

16. The Order, at the **Annex**, seeks to add phenazepam, MT-45 and 4,4'-DMAR to Part I of the First Schedule to the Ordinance.

LEGISLATIVE TIMETABLE

17. The legislative timetable will be –

Gazettal of the Order	5 May 2017
Tabling at the Legislative Council for negative vetting	10 May 2017
Commencement date of the Order	7 July 2017

IMPLICATIONS OF THE PROPOSAL

18. 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, environmental or gender implications. The proposal is also in line with the sustainability principle of pursuing policies which protect the health of the people of Hong Kong. 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 among family members. The proposal represents our ongoing efforts to closely monitor emerging new synthetic drugs and ensure that they are brought under control in a timely manner. This would help 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

19. We consulted relevant trades, as well as holders of licenses issued under the Ordinance and the Pharmacy and Poisons Ordinance. There was no adverse comment.

20. We also consulted the Action Committee Against Narcotics and the Panel on Security of the Legislative Council on 15 December 2016 and 14 March 2017 respectively. They supported the proposed control.

PUBLICITY

21. The Order will be published in the Gazette on 5 May 2017. A press release will be issued on 2 May 2017, and a spokesperson will be available for answering media enquiries.

BACKGROUND

22. The growing predominance of psychotropic substance abuse and the continuous emergency of new synthetic drugs pose new challenges to legislative control and law enforcement globally. We need to remain vigilant in closely monitoring the drug trends both overseas and locally and take timely action to bring new drugs under legislative control.

ENQUIRIES

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

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Narcotics Division
Security Bureau
May 2017

Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2017

(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 7 July 2017.

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 "Phenampromide"—

Add

"Phenazepam".

(2) First Schedule, Part I, paragraph 1(a), after item "4-Cyano-1-methyl-4-phenylpiperidine"—

Add

"1-Cyclohexyl-4-(1,2-diphenylethyl)piperazine".

(3) First Schedule, Part I, paragraph 1(a), after item "4-Methyl-2,5-dimethoxy-N-(2-methoxybenzyl)phenethylamine"—

Add

"4-Methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine".

Chief Executive

27 April 2017

Explanatory Note

This Order amends Part I of the First Schedule to the Dangerous Drugs Ordinance (Cap. 134) in order to impose control on the following substances—

(a) Phenazepam;

(b) 1-Cyclohexyl-4-(1,2-diphenylethyl)piperazine (commonly known as MT-45);

(c) 4-Methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine (commonly known as 4,4'-DMAR).