

LEGISLATIVE COUNCIL BRIEF

Dangerous Drugs Ordinance
(Chapter 134)

DANGEROUS DRUGS ORDINANCE (AMENDMENT OF FIRST SCHEDULE) ORDER 2018

Control of Chemicals Ordinance
(Chapter 145)

CONTROL OF CHEMICALS ORDINANCE (AMENDMENT OF SCHEDULE 2) ORDER 2018

INTRODUCTION

A At the meeting of the Executive Council on 24 April 2018, the Council ADVISED and the Chief Executive ORDERED that the Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2018, at **Annex A**, should be made under section 50(1) of the Dangerous Drugs Ordinance (Cap. 134), to impose control on ethylphenidate (EPH)¹, methiopropamine (MPA)², MDMB-CHMICA³, 5F-APINACA⁴ and U-47700⁵.

B 2. On 27 April 2018, the Secretary of Security made the Control of Chemicals Ordinance (Amendment of Schedule 2) Order 2018, at **Annex B**, under section 18A of the Control of Chemicals Ordinance (Cap. 145), to impose control on 4-anilino-N-phenethylpiperidine (ANPP) and N-phenethyl-4-piperidone (NPP)⁶.

¹ Ethylphenidate is the common name of Ethyl phenyl(piperidin-2-yl)acetate.

² Methiopropamine is the common name of N-Methyl-1-(thiophen-2-yl)propan-2-amine.

³ MDMB-CHMICA is the common name of Methyl N-{{[1-(cyclohexylmethyl)-1H-indol-3-yl]carbonyl}-3-methylvalinate.

⁴ 5F-APINACA is the common name of N-(Adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide.

⁵ U-47700 is the common name of 3,4-Dichloro-N-(2-dimethylamino-cyclohexyl)-N-methylbenzamide.

⁶ Control on the two substances will also apply to their salts (whenever the existence of such salts is possible).

JUSTIFICATIONS

EPH

3. According to the report of the 38th Expert Committee on Drug Dependence (ECDD) of the World Health Organization (WHO) published in November 2016, EPH is a homologue of methylphenidate⁷. EPH demonstrates typical adverse effects of amphetamine-like stimulants, including tachycardia, hypertension, dilated pupils, agitation and fever. Its use has been associated with a number of intoxications and fatalities, including one death in the United Kingdom (UK) in 2015 attributable solely to use of the drug.

4. Currently, EPH is not controlled in Hong Kong. There is no record of local seizure of EPH by law enforcement agencies. EPH does not have any recognised 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 2013.

MPA

5. According to the report of the 38th ECDD of WHO, MPA is a methamphetamine analogue having similar effects as amphetamine⁸. Reported adverse effects include chest pain/tightening, tachycardia, anxiety, panic attacks, perspiration, headache, nausea, difficulty in breathing, vomiting, difficulty in urinating, sexual dysfunction, auditory and visual hallucinations. According to the Advisory Council on the Misuse of Drugs of the UK, MPA was implicated in the cause of death in over 30 cases between 2012 and 2016.

6. Currently, MPA is not controlled in Hong Kong. There is no record of local seizure of MPA by law enforcement agencies. MPA does not have any recognised 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 2013.

⁷ Methylphenidate has been included in both the First Schedule to Cap. 134 and Schedule 3 (i.e. substances required to be sold by retail only upon a prescription) and Schedule 10 (Poisons List) to the Pharmacy and Poisons Regulations (Cap. 138A). Methylphenidate is used in the treatment of attention deficit hyperactivity disorder.

⁸ Both methamphetamine and amphetamine have been included in the First Schedule to Cap. 134.

MDMB-CHMICA

7. According to the report of the 38th ECDD of WHO, MDMB-CHMICA is used as an active ingredient of products sold as cannabis⁹ substitutes. Use of MDMB-CHMICA has been associated with acute toxicities and serious adverse events, including respiratory acidosis, hypothermia, loss of consciousness, severe behavioural and psychological effects. A total of 29 deaths were associated with MDMB-CHMICA in Europe between 2014 and 2015.

8. Currently, MDMB-CHMICA is not controlled in Hong Kong. There is no record of local seizure of MDMB-CHMICA by law enforcement agencies. MDMB-CHMICA does not have any recognised 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 2013.

5F-APINACA

9. According to the report of the 38th ECDD of WHO, 5F-APINACA (also known as 5F-AKB-48) belongs to the category of synthetic cannabinoid receptor agonists, which may cause nausea, vomiting, agitation, hallucinations, panic attacks, tachycardia, hypertension, and occasionally chest pain, acute psychosis, and seizures. Long term use of 5F-APINACA is characterised by loss of appetite, cognitive impairment, breathlessness, cardiac conditions requiring medication, skin ablations, tooth decay, lethargy, apathy, tremors and insomnia. One case of fatal 5F-APINACA intoxication was reported in the UK in 2015.

10. Currently, 5F-APINACA is not controlled in Hong Kong. There is no record of local seizure of 5F-APINACA by law enforcement agencies. 5F-APINACA does not have any recognised 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 2013.

U-47700

11. According to the report of the 38th ECDD of WHO, U-47700 demonstrates opiate-like adverse effects, including pinpoint pupils, respiratory depression, cyanosis, and depressed consciousness. More than 15 fatalities were associated with the presence of U-47700 in Europe and the United States (US) in 2016.

⁹ Cannabis has been included in the First Schedule to Cap. 134.

12. Currently, U-47700 is not controlled in Hong Kong. U-47700 does not have any recognised 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 2013.

13. During the 60th Session of the United Nations Commission on Narcotics Drugs (UNCND) held in March 2017, Member States adopted ECDD's recommendation to place EPH, MPA, MDMB-CHMICA, 5F-APINACA and U-47700 under international control.

ANPP and NPP

14. According to the report of the International Narcotics Control Board (INCB)¹⁰ published in February 2017, ANPP is an immediate precursor of fentanyl¹¹ and acetyl fentanyl¹² which are very potent narcotic drugs typically 10 to 100 times stronger than heroin. NPP can be used as a starting material for ANPP, or as a direct precursor to a number of fentanyl analogues. Fentanyl and fentanyl analogues caused over 9 000 overdose deaths in the US in 2015.

15. INCB is of the opinion that international control of ANPP and NPP is required in order to limit their availability to traffickers, with a view to reducing the quantity of fentanyl, acetyl fentanyl and other fentanyl analogues illicitly manufactured from these substances and trafficked internationally.

16. Currently, ANPP and NPP are not controlled in Hong Kong. There is no registered pharmaceutical product containing ANPP or NPP in Hong Kong. As regards trade declarations, there is no record of import and export of these two substances since January 2013.

17. During the 60th Session of UNCND held in March 2017, Member States adopted INCB's recommendation to place ANPP and NPP under international control.

¹⁰ INCB is the independent monitoring body for the implementation of the United Nations international drug conventions.

¹¹ Fentanyl has been included in both the First Schedule to Cap. 134 and Schedule 10 (Poisons List) to the Pharmacy and Poisons Regulations (Cap. 138A).

¹² Acetyl fentanyl has been included in the First Schedule to Cap. 134.

THE PROPOSALS

EPH, MPA, MDMB-CHMICA, 5F-APINACA and U-47700

18. We propose to amend Part I of the First Schedule to Cap. 134 to impose control on EPH, MPA, MDMB-CHMICA, 5F-APINACA and U-47700.

19. Under Cap. 134, 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). The manufacture, import, export and supply of these substances will require respective licences issued by DH. Trafficking and manufacturing of the substances in contravention of Cap. 134 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 Cap. 134 will be subject to a maximum penalty of seven years' imprisonment and a fine of \$1 million.

ANPP and NPP

20. We also propose to amend Schedule 2 to Cap. 145 to impose control on ANPP and NPP.

21. Under Cap. 145, substances specified in Schedule 2 are subject to the control of a licensing scheme administered by the Customs and Excise Department. It is an offence for a person to have in his/her possession, manufacture, transport or distribute these substances for the unlawful production of dangerous drugs; or import or export these substances not under and in accordance with a licence. The maximum penalty is imprisonment for 15 years and a fine of \$1 million.

THE ORDERS

22. The Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2018, at **Annex A**, seeks to add EPH, MPA, MDMB-CHMICA, 5F-APINACA and U-47700 to Part I of the First Schedule to Cap. 134.

23. The Control of Chemicals Ordinance (Amendment of Schedule 2) Order 2018, at **Annex B**, seeks to add ANPP and NPP to Schedule 2 to Cap. 145.

LEGISLATIVE TIMETABLE

24.	The legislative timetable will be –	
	Gazettal of the Orders	4 May 2018
	Tabling at the Legislative Council (LegCo) for negative vetting	9 May 2018
	Commencement date of the Orders	6 July 2018

IMPLICATIONS OF THE PROPOSALS

25. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current binding effect of Cap. 134 and Cap. 145. They have no economic, productivity, environmental or gender implications. The proposals are 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 proposals represent 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 proposals are expected to be minimal and any additional requirements will be absorbed by the relevant bureaux and departments with existing resources.

PUBLIC CONSULTATION

26. We have consulted relevant trades, as well as holders of licenses issued under Cap. 134, Cap. 145 and the Pharmacy and Poisons Ordinance (Cap. 138). There was no adverse comment.

27. We also consulted the Action Committee Against Narcotics and the LegCo Panel on Security on 15 December 2017 and 6 February 2018 respectively. They supported the proposed control.

PUBLICITY

28. The Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2018 and the Control of Chemicals Ordinance (Amendment of Schedule 2) Order 2018 will be published in the Gazette on 4 May 2018. A press release will be issued on 2 May 2018, and a spokesperson will be available for answering media enquiries.

BACKGROUND

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

ENQUIRIES

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

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

Narcotics Division
Security Bureau
May 2018

Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2018

Section 1

1

Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2018

(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 6 July 2018.

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 "Ethylmorphine (3-ethylmorphine)"—

Add

"Ethyl phenyl(piperidin-2-yl)acetate".

- (2) First Schedule, Part I, paragraph 1(a), after item "Methcathinone"—

Add

"Methyl N-{{[1-(cyclohexylmethyl)-1H-indol-3-yl]carbonyl}-3-methylvalinate".

- (3) First Schedule, Part I, paragraph 1(a), after item "N-(Adamant-1-yl)-1-pentyl-1H-indole-3-carboxamide"—

Add

"N-(Adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide".

Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2018

Section 3

2

- (4) First Schedule, Part I, paragraph 1(a), after item "3,4-Dichloro-N[[1-(dimethylamino)cyclohexyl]methyl]benzamide"—

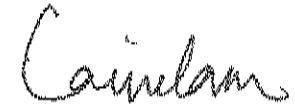
Add

"3,4-Dichloro-N-(2-dimethylamino-cyclohexyl)-N-methylbenzamide".

- (5) First Schedule, Part I, paragraph 1(a), after item "N-[α-Methyl-3,4-(methylenedioxy)phenethyl] hydroxylamine"—

Add

"N-Methyl-1-(thiophen-2-yl)propan-2-amine".



Chief Executive

30th April 2018

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) Ethyl phenyl(piperidin-2-yl)acetate (commonly known as Ethylphenidate or EPH);
- (b) Methyl N-{{1-(cyclohexylmethyl)-1H-indol-3-yl}carbonyl}-3-methylvalinate (commonly known as MDMB-CHMICA);
- (c) N-(Adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (commonly known as 5F-APINACA or 5F-AKB-48);
- (d) 3,4-Dichloro-N-(2-dimethylamino-cyclohexyl)-N-methyl-benzamide (commonly known as U-47700);
- (e) N-Methyl-1-(thiophen-2-yl)propan-2-amine (commonly known as Methiopropamine or MPA).

Control of Chemicals Ordinance (Amendment of Schedule 2) Order 2018

(Made by the Secretary for Security under section 18A(1) of the Control of Chemicals Ordinance (Cap. 145))

1. Commencement

This Order comes into operation on 6 July 2018.

2. Control of Chemicals Ordinance amended

The Control of Chemicals Ordinance (Cap. 145) is amended as set out in section 3.

3. Schedule 2 amended

Schedule 2—

Add

- “19. 4-anilino-N-phenethylpiperidine (4-苯胺-N-苯乙基哌啶) (*)
20. N-phenethyl-4-piperidone (N-苯乙基-4-哌啶酮) (*)”.



Secretary for Security

27 APRIL 2018

Explanatory Note

This Order amends Schedule 2 to the Control of Chemicals Ordinance (Cap. 145) in order to impose control on the following substances and their salts (whenever the existence of such salts is possible) —

- (a) 4-anilino-N-phenethylpiperidine;
 - (b) N-phenethyl-4-piperidone.
2. These substances and their salts can be used in the manufacture of fentanyl, acetyl fentanyl and other fentanyl analogues.