

LEGISLATIVE COUNCIL BRIEF

Dangerous Drugs Ordinance
(Chapter 134)

DANGEROUS DRUGS ORDINANCE (AMENDMENT OF FIRST SCHEDULE) ORDER 2020

Control of Chemicals Ordinance
(Chapter 145)

CONTROL OF CHEMICALS ORDINANCE (AMENDMENT OF SCHEDULE 2) ORDER 2020

INTRODUCTION

A At the meeting of the Executive Council on 12 May 2020, the Council ADVISED and the Chief Executive ORDERED that the Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2020, at **Annex A**, should be made under section 50(1) of the Dangerous Drugs Ordinance (Cap. 134) (“DDO”), to impose control on methoxyacetyl fentanyl, FUB-AMB¹, ADB-FUBINACA², CUMYL-4CN-BINACA³ and ADB-CHMINACA⁴.

B 2. On 13 May 2020, the Secretary of Security made the Control of Chemicals Ordinance (Amendment of Schedule 2) Order 2020, at **Annex B**, under section 18A of the Control of Chemicals Ordinance (Cap. 145) (“CCO”), to impose control on APAA, PMK glycidate and PMK glycidic acid⁵.

¹ FUB-AMB, also known as MMB-FUBINACA and AMB-FUBINACA, is the common name of Methyl 2-((1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl)amino)-3-methylbutanoate.

² ADB-FUBINACA is the common name of N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide.

³ CUMYL-4CN-BINACA is the common name of 1-(4-Cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide.

⁴ ADB-CHMINACA, also known as MAB-CHMINACA, is the common name of N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide.

⁵ Control on the three substances will also apply to their salts (whenever the existence of such salts is possible).

JUSTIFICATIONS

3. As a regular exercise, the Government has from time to time proposed amendments to the DDO and CCO as appropriate to include new substances under statutory control, having regard to a host of relevant factors, including international control requirements, the uses and harmful effects of the substances, severity of abuse in the local and overseas contexts, advice of the Action Committee Against Narcotics (“ACAN”) and relevant authorities, etc. This is to ensure that law enforcement agencies in Hong Kong could respond effectively to the latest drug developments.

Five Dangerous Drugs

4. At the 62nd Session of the United Nations Commission on Narcotic Drugs (“UNCND”) held in March 2019, Member States adopted the World Health Organisation (“WHO”)’s recommendation to place the following five dangerous drugs under international control. According to the 41st report of the WHO Expert Committee on Drug Dependence, the adverse effects of these drugs are as follows –

- (a) **methoxyacetylfentanyl**: methoxyacetylfentanyl is a synthetic analogue of fentanyl⁶. Similar to other opioids, overdose of methoxyacetylfentanyl can lead to respiratory arrest and death. Methoxyacetylfentanyl was associated with a number of deaths in Europe and the United States;
- (b) **FUB-AMB, ADB-FUBINACA and CUMYL-4CN-BINACA**: FUB-AMB, ADB-FUBINACA, CUMYL-4CN-BINACA are potent synthetic cannabinoids which affect the central nervous system. In New Zealand, there were at least 20 deaths reported in 2017 likely to be related to the use of FUB-AMB. Use of ADB-FUBINACA was reported in Asia, Europe and the United States, with severe adverse reactions including death. CUMYL-4CN-BINACA was associated with 11 fatalities in Europe in 2016; and
- (c) **ADB-CHMINACA**: ADB-CHMINACA is one of the most potent synthetic cannabinoids studied to date, of which the efficacy and potency are substantially greater than those of tetrahydrocannabinol (“THC”)⁷. Signs and symptoms resulted from the abuse of ADB-CHMINACA include tachycardia, unresponsiveness, agitation, combativeness, seizures, hyperemesis, slurred speech, delirium and

⁶ Fentanyl, which is an opioid analgesic, is a controlled dangerous drug included in the First Schedule to the DDO and Schedule 10 (Poisons List) to the Pharmacy and Poisons Regulations, Cap. 138A.

⁷ THC, which is a chemical found in cannabis plants and has psychoactive effect, is a controlled dangerous drug included in the First Schedule to the DDO.

sudden death. Between 2014 and 2016, there were 14 reported fatalities associated with ADB-CHMINACA in Europe and Japan.

5. Currently, all of the above five dangerous drugs are not controlled under the DDO. They have no known medical use or therapeutic application, and there is no registered pharmaceutical product containing these five substances in Hong Kong. As regards trade declarations, there is no record of import and export of these substances at least over the last five years.

Three Precursor Chemicals

6. At the same UNCND Session mentioned in paragraph 4 above, Member States also adopted the International Narcotics Control Board⁸ (INCB)'s recommendation to place the following three precursor chemicals under international control –

- (a) **APAA:** APAA is an immediate precursor of 1-phenyl-2-propanone⁹, a substance used in the illicit manufacture of amphetamine¹⁰ and methamphetamine¹⁰; and
- (b) **PMK glycidate and PMK glycidic acid:** PMK glycidate and PMK glycidic acid are both precursors of 3,4-methylenedioxy-phenyl-2-propanone⁹, a substance used in the illicit manufacture of MDMA¹⁰ and related substances.

7. INCB considers that international control of APAA, PMK glycidate and PMK glycidic acid is required in order to limit their availability to traffickers, so as to reduce the quantity of amphetamine, methamphetamine, MDMA and related substances illicitly manufactured from these precursor chemicals and trafficked internationally.

8. Currently, all of the above three precursor chemicals are not controlled under the CCO in Hong Kong. There is no registered pharmaceutical product containing or made from these precursor chemicals in Hong Kong. As regards trade declarations, there is no record of import and export of these three precursor chemicals at least over the past five years.

⁸ INCB is an independent monitoring body established under the United Nations since 1968 for the implementation of the United Nations international drug control conventions, namely the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Substances of 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. One of its functions is to assess chemicals used in the illicit manufacture of drugs, in order to determine whether they should be placed under international control.

⁹ Both 1-phenyl-2-propanone and 3,4-methylenedioxy-phenyl-2-propanone are controlled precursor chemicals included in Schedule 2 to the CCO.

¹⁰ Amphetamine, methamphetamine and MDMA are controlled dangerous drugs included in the First Schedule to the DDO.

THE PROPOSALS

Five Dangerous Drugs

9. We propose to amend Part I of the First Schedule to the DDO to impose control on methoxyacetylfentanyl, FUB-AMB, ADB-FUBINACA, CUMYL-4CN-BINACA and ADB-CHMINACA.

10. Under the 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”). 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 the DDO 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 DDO will be subject to a maximum penalty of seven years’ imprisonment and a fine of \$1 million.

Three Precursor Chemicals

11. We also propose to amend Schedule 2 to the CCO to impose control on APAA, PMK glycidate and PMK glycidic acid.

12. Under the CCO, substances included 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

13. The Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2020, at **Annex A**, seeks to add methoxyacetylfentanyl, FUB-AMB, ADB-FUBINACA, CUMYL-4CN-BINACA and ADB-CHMINACA to Part I of the First Schedule to the DDO.

14. The Control of Chemicals Ordinance (Amendment of Schedule 2) Order 2020, at **Annex B**, seeks to add APAA, PMK glycidate and PMK glycidic acid to Schedule 2 to the CCO.

LEGISLATIVE TIMETABLE

15. The legislative timetable will be –
- | | |
|---|--------------|
| Gazettal of the Orders | 22 May 2020 |
| Tabling at the Legislative Council (LegCo) for negative vetting | 27 May 2020 |
| Commencement date of the Orders | 24 July 2020 |

IMPLICATIONS OF THE PROPOSALS

16. The proposals are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the current binding effect of the DDO and CCO. 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 precursor chemicals, 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

17. We have consulted relevant trades, including holders of licences issued under the DDO, the CCO and the Pharmacy and Poisons Ordinance (Cap. 138). There was no adverse comment.

18. We have also consulted the ACAN, which supports the proposed control. We circulated an Information Paper on the proposed control to the LegCo Panel on Security on 8 April 2020. There was no adverse comment.

PUBLICITY

19. The Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2020 and the Control of Chemicals Ordinance (Amendment of Schedule 2) Order 2020 will be published in the Gazette on 22 May 2020. A

press release will be issued on 20 May 2020, and a spokesperson will be available for answering media enquiries.

BACKGROUND

20. The growing predominance of psychotropic substance abuse and the continuous emergence of new synthetic drugs and precursor chemicals 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

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

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

Narcotics Division
Security Bureau
May 2020

Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2020

(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 24 July 2020.

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 “Methcathinone (甲卡西酮)”—

Add

“Methoxyacetylfentanyl (甲氧基乙酰芬太尼)”.

- (2) First Schedule, Part I, paragraph 1(a), after item “Methyl 2-{{1-(5-fluoropentyl)-1H-indazole-3-carbonyl}amino}-3,3-dimethylbutanoate (3,3-二甲基-2-[1-(5-氟戊基)吡唑-3-甲酰氨基]丁酸甲酯)”—

Add

“Methyl 2-{{1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino}-3-methylbutanoate (3-甲基-2-{{1-[(4-氟苯基)甲基]-1H-吡唑-3-羰基}氨基)丁酸甲酯)”.

- (3) First Schedule, Part I, paragraph 1(a), after item “N-(Adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (N-(金剛烷-1-基)-1-(5-氟戊基)-1H-吡唑-3-甲酰胺)”—

Add

“N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (N-(1-氨基-3,3-二甲基-1-氧丁烷-2-基)-1-(環己基甲基)-1H-吡唑-3-甲酰胺)”

N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (N-(1-氨基-3,3-二甲基-1-氧丁烷-2-基)-1-[(4-氟苯基)甲基]-1H-吡唑-3-甲酰胺)”.

- (4) First Schedule, Part I, paragraph 1(a), after item “4-Cyano-1-methyl-4-phenylpiperidine (4-氰基-1-甲基-4-苯基哌啶)”—

Add

“1-(4-Cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (1-(4-氰基丁基)-N-(2-苯基丙-2-基)-1H-吡唑-3-甲酰胺)”.

Carmilam

Chief Executive

15 May 2020

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) Methoxyacetylfentanyl;
- (b) Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (commonly known as FUB-AMB);
- (c) N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (commonly known as ADB-CHMINACA);
- (d) N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (commonly known as ADB-FUBINACA);
- (e) 1-(4-Cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (commonly known as CUMYL-4CN-BINACA).

Control of Chemicals Ordinance (Amendment of Schedule 2) Order 2020

(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 24 July 2020.

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

- “21. Alpha-phenylacetoacetamide (α -乙酰乙酰苯胺) (*)
- 22. 3,4-MDP-2-P methyl glycidate (3,4-亞甲基二氧苯基-2-丙酮甲基縮水甘油) (*)
- 23. 3,4-MDP-2-P methyl glycidic acid (3,4-亞甲基二氧苯基-2-丙酮甲基縮水甘油酸) (*)”.



Secretary for Security

13TH MAY 2020

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) Alpha-phenylacetoacetamide (commonly known as APAA);
- (b) 3,4-MDP-2-P methyl glycidate (commonly known as PMK glycidate);
- (c) 3,4-MDP-2-P methyl glycidic acid (commonly known as PMK glycidic acid).

2. APAA, PMK glycidate, PMK glycidic acid and their salts can be used for manufacturing dangerous drugs. For APAA and its salts, they can be used in the manufacture of amphetamine and methamphetamine. For PMK glycidate, PMK glycidic acid and their salts, they can be used in the manufacture of 3,4-methylenedioxymethamphetamine.