

LEGISLATIVE COUNCIL BRIEF

Dangerous Drugs Ordinance
(Chapter 134)

DANGEROUS DRUGS ORDINANCE (AMENDMENT OF FIRST SCHEDULE) ORDER 2023

INTRODUCTION

At the meeting of the Executive Council on 10 October 2023, the Council ADVISED and the Chief Executive ORDERED that the Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2023, at **Annex**, should be made under section 50(1) of the Dangerous Drugs Ordinance (Cap. 134) (the Ordinance), to impose control on five substances, namely, 2-methyl-AP-237, etazene, etonitazepyne, protonitazene, and ADB-BUTINACA.

JUSTIFICATIONS

2. The growing predominance of psychotropic substance abuse and the continuous emergence of new drugs and precursor chemicals pose challenges to legislative control and law enforcement globally. The Government has been vigilant in closely monitoring drug trends in and outside Hong Kong and taking timely action to bring new drugs and precursor chemicals under legislative control. As a regular exercise, the Government has from time to time proposed amendments to the Ordinance as well as the Control of Chemicals Ordinance (Cap. 145) to include new dangerous drugs and precursor chemicals 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 drug scene.

Five Substances under International Control

3. At the 66th Session of the United Nations Commission on Narcotic Drugs (UNCND) held in March 2023, Member States adopted the recommendation by the World Health Organization (WHO) to place

seven dangerous drugs under international control¹. Among them, alpha-PiHP and 3-methylmethcathinone are already controlled in Hong Kong under the Ordinance. For the remaining five substances (i.e. the five substances mentioned in paragraph 1 above), they have not yet been controlled under the Ordinance as dangerous drugs in Hong Kong and hence, there is a need to carry out legislative amendment exercise to put them under legislative control locally. Their adverse effects as elaborated in the 45th report of the WHO Expert Committee on Drug Dependence are as follows —

- (a) **2-methyl-AP-237** is an opioid analgesic with a rapid onset of action and a potency and analgesic effects similar to those of fentanyl². It produces acute toxic effects typical of opioids, including respiratory depression, and is expected to produce euphoria and other effects predictive of high abuse liability. No abuse case has been detected in Hong Kong so far;
- (b) **etazene, etonitazepyne, and protonitazene** are synthetic opioids with a potency similar or greater than that of opioids such as morphine³ and fentanyl. Etonitazepyne is a relatively new drug on the illicit market with an increasing number of deaths caused by abuse reported in other jurisdictions; and
- (c) **ADB-BUTINACA** is a synthetic cannabinoid with effects such as euphoria, appetite stimulation, sedation and paranoia⁴. While limited number of seizure cases were detected in Hong Kong, a number of jurisdictions have reported the abuse of ADB-BUTINACA and harms related to its use, including multiple deaths and presentations of patients to emergency departments with altered consciousness and loss of consciousness.

4. All of the above five substances have no known medical use nor therapeutic application. There is also no registered pharmaceutical product containing any of them in Hong Kong. As regards trade declarations, there is no record of import and export of these substances in Hong Kong over the past five years.

¹ Namely the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol, and the Convention on Psychotropic Substances of 1971. The Conventions stipulate that state parties shall take legislative and administrative measures as may be necessary to give effect to and carry out the provisions of the Conventions.

² Fentanyl, which is an opioid analgesic, is already under control of the Ordinance as a dangerous drug and under Schedule 10 (Poisons List) to the Pharmacy and Poisons Regulations (Cap. 138A) as poisons.

³ Morphine is already under control of the Ordinance as a dangerous drug.

⁴ According to a report of UNCND, the substance is expected to produce dependence similar to other synthetic cannabinoids.

THE PROPOSAL

5. In order to enable law enforcement agencies in Hong Kong to respond effectively to the drug trends as set out in paragraphs 3 to 4 above, we propose including in Part I of the First Schedule to the Ordinance the five substances mentioned in paragraph 3 above, namely, 2-methyl-AP-237, etazene, etonitazepyne, protonitazene, and ADB-BUTINACA.

LEGISLATIVE TIMETABLE

6. The Order would be considered by the Legislative Council (LegCo) by negative vetting. The detailed legislative timetable is as follows –

Gazettal of the Order	20 October 2023
Tabling at the LegCo for negative vetting	25 October 2023
Commencement of the Order	15 December 2023

IMPLICATIONS OF THE PROPOSAL

7. 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. From the family perspective, apart from inflicting health damage to the abuser, drug abuse is also often found to have a profound impact on an abuser's family. The proposal would help prevent potential family problems and tension aroused by drug abusers. 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

8. We consulted the ACAN on the proposed control of the five substances, and it supports the legislative proposal. We also consulted the LegCo Panel on Security on the proposed control on 6 June 2023. There were no adverse comments.

9. The relevant trades, including holders of licences under the Ordinance and the Pharmacy and Poisons Ordinance (Cap. 138), etc., had

also been consulted on the legislative proposal in April 2023 with no objection received.

10. During consultation, some people have expressed worries about the potential impact on Hong Kong due to the prevalence of xylazine (commonly known as “zombie drug” or “tranq”) abuse in some overseas jurisdictions as reported by the media. In Hong Kong, xylazine is regulated under the Pharmacy and Poisons Ordinance (Cap. 138) as pharmaceutical product and prescription medicine. Its supply, storage and use must strictly follow the conditions as stipulated in the law. The only legitimate use of xylazine is in the field of veterinary medicine as sedative, analgesic and muscle relaxant, and that is under stringent control as stipulated under Cap. 138. The Government would continue to closely monitor the abuse trend for xylazine to evaluate from time to time the need to step up the legal control on it in Hong Kong.

PUBLICITY

11. The Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2023 will be published in the Gazette on 20 October 2023. A press release will be issued on 18 October 2023. A spokesperson will be available for answering media enquiries.

BACKGROUND

12. 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 manufacture, import, export and supply of these substances will require respective licences issued by the department. 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.

13. The First Schedule to the Ordinance was last amended in 2022 to impose control on 10 substances. Among them, the control on cannabidiol (CBD) became effective on 1 February 2023, and the control of the other nine substances took effect on 16 December 2022.

ENQUIRIES

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

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Tel. No.: 2867 5220

Narcotics Division
Security Bureau
October 2023

Dangerous Drugs Ordinance (Amendment of First Schedule) Order 2023

(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 15 December 2023.

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 “Acryloylfentanyl (丙烯酰芬太尼)”—

Add

“ADB-BUTINACA (N-[1-(氨基羰基)-2,2-二甲基丙基]-1-丁基-1H-吡唑-3-甲酰胺)”.

- (2) First Schedule, Part I, paragraph 1(a), after item “Estazolam (舒樂安定)”—

Add

“Etazene (2-[4-乙氧基苯基]甲基]-N,N-二乙基-1H-苯並咪唑-1-乙胺)”.

- (3) First Schedule, Part I, paragraph 1(a), after item “Etonitazene (依托尼秦)”—

Add

“Etonitazepyne (2-[4-乙氧基苯基]甲基]-5-硝基-1-(2-吡咯烷-1-基乙基)-1H-苯並咪唑)”.

- (4) First Schedule, Part I, paragraph 1(a), after item “Propiram (丙吡胺)”—

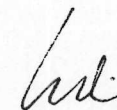
Add

“Protonitazene (N,N-二乙基-5-硝基-2-[4-丙氧基苯基]甲基]-1H-苯並咪唑-1-乙胺)”.

- (5) First Schedule, Part I, paragraph 1(a), after item “2-Methyl-3-morpholino-1, 1-diphenyl-propanecarboxylic acid (2-甲基-3-嗎啉酮-1, 1-二苯基丙烷羧酸)”—

Add

“2-Methyl-AP-237 (2-甲基-AP-237)”.



Chief Executive

13 OCTOBER 2023

Explanatory Note

This Order amends Part I of the First Schedule to the Dangerous Drugs Ordinance (Cap. 134) to bring 5 substances into the regulatory regime under the Ordinance.