Title:
TEMPORARY CONTROL OF N-METHYL-1-(THIOPHEN-2-YL)PROPAN-2-AMINE (METHIOPROPAMINE OR MPA)

IA No: HO0262

Lead department or agency:
HOME OFFICE

Other departments or agencies:
DEPARTMENT OF HEALTH, DEPARTMENT FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY

Impact Assessment (IA)

Date: 21/11/2016

Stage: Final

Source of intervention: Domestic

Type of measure: Secondary legislation

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Summary: Intervention and Options

RPC Opinion: Not Applicable

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANDCB on 2014 prices)	**One-In, Three-Out?**	**Business Impact Target Status**
NK	NK	NK	Not in scope	Non qualifying provision

What is the problem under consideration? Why is government intervention necessary?

In 2015, following advice from the Advisory Council on the Misuse of Drugs (ACMD), the Government temporarily controlled N-methyl-1-(thiophen-2-yl)propan-2-amine (methiopropamine, or MPA) under a Temporary Class Drugs Order (TCDO) under Section 2A of the Misuse of Drugs Act 1971.

The current TCDO is due to expire on 26 November 2016. The ACMD has not been able to gather sufficient evidence on MPA to make recommendations for permanent control within 12 months. This has been due to the difficulty in finding significant data relating to harms, seizures and prevalence of MPA since the first report published on MPA, and since the original introduction of the TCDO. As such, the ACMD has recommended the TCDO is made for an additional 12 months to allow time to gather and consider more evidence and to make a substantiated recommendation.

Restricting supply using the stricter regime provided by a TCDO is necessary to prevent harm being caused. Given the reported risks that the substance poses to public health, the ACMD has advised that the TCDO remains the preferred option for control pending its final recommendation. A TCDO provides more effective restrictions on the supply than the Psychoactive Substances Act 2016 as the sentencing regime provided by the Misuse of Drugs Act 1971 applies. The ACMD has based the assessment for stricter controls on the evidence that currently exists on this substance and the need for law enforcement to take specific action to restrict supply.

What are the policy objectives and the intended effects?

The policy objective is to reduce the harms created by MPA. The intended effects are to limit access to MPA, to signal to the public the potential danger from this substance and to enable the police and other authorities to take action against the sale or distribution of the substance, including all salts, stereoisomeric forms, preparations and products.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1 - Do nothing and allow MPA to be covered by the Psychoactive Substances Act 2016.
Option 2 – Re-make the temporary class drug order under Section 2A to the Misuse of Drugs Act 1971 for MPA, including all salts, stereoisomeric forms, preparations and products, whilst the ACMD fully assesses the harms and risks associated with this substance.

The TCDO is being re-made due to the ACMD's initial assessment that MPA presents a risk to public health and safety. The ACMD will gather further evidence into the harms associated with this substance before a decision is made on permanent control.

Option 2 is the preferred option on the basis of the current evidence and the ACMD's initial assessments on the harms and misuse associated with MPA. The TCDO provides a higher level of control with offences with stricter liability and wider powers for enforcement than the Psychoactive Substances Act 2016.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** Within 12 months.

Does implementation go beyond minimum EU requirements?		N/A		
Are any of these organisations in scope?	**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:** N/A	**Non-traded:** N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Sarah Newton Date: 21/11/2016

Summary: Analysis & Evidence

Policy Option 2

Description: Remake a temporary class drug order under Section 2A to the Misuse of Drugs Act 1971 MPA.

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low:	**High:**	**Best Estimate:** NK

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low				
High				
Best Estimate	NK		NK	**NK**

Description and scale of key monetised costs by 'main affected groups'

It is not possible to monetise the costs of this option in light of the current available data. The costs and benefits of this option are assessed relative to option 1 (i.e. additional costs and benefits above the do nothing scenario).

Other key non-monetised costs by 'main affected groups'

Businesses – following consultation with BEIS, the MHRA and the chemical and pharmaceutical industry, this compound has been identified as having no legitimate industrial or medicinal use. There should be no further cost to businesses by remaking the TCDO.
The **Public sector** may face some costs from enforcement responses, though it is expected that these will be subsumed into the enforcement and regulatory response to similar drugs permanently controlled under the 1971 Act.
As the supply of this substance has already been restricted by the imposition of a previous TCDO and the supply would continue to be restricted under option 1, the personal cost of option 2 is likely to be negligible.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate	NK		NK	**NK**

Description and scale of key monetised benefits by 'main affected groups'

It is not possible to monetise the benefits of this option in light of the current available data.

Other key non-monetised benefits by 'main affected groups'

Public Sector

There are benefits to law enforcement continuing to take a consistent and targeted regulatory response to MPA through the TCDO. In particular, allowing MPA to be covered by the Psychoactive Substances Act 2016 would result in lower maximum penalities for supply, production and importation/exportation and a different regime for control, involving different offences. Renewing the TCDO provides law enforcement with a consistent regime to control this substance and therefore to restrict the supply more effectively. Under the proposed option (option 2), enforcement costs would likely be lower as there is no requirement for proof of psychoactivity or evidence that MPA is being sold for human consumption.
As part of its recommendation to re-make the Order, the ACMD has highlighted that the TCDO has been effective in halting the problematic proliferation of MPA, particularly in areas in Scotland where instances had been reported previously. Although anecdotal, the evidence indicates that the prevalence and the use seen prior to the TCDO seem to have abated, particularly in relation to intravenous injection.

Personal Benefits

It is possible that personal benefits arise from the deterrence effect of a clear message sent out that the substance has had an initial harms assessment and found to pose a risk to public health and safety.

Society

Given the likely lower enforcement costs and the message sent out by temporary control, a TCDO provides a stronger, more targeted tool to address the societal harms of MPA

Key assumptions/sensitivities/risks **Discount rate (%)**

To the best of our knowledge, MPA does not have any legitimate industrial or medicinal uses. It is possible that the substance in question is currently being used by UK research bodies, creating the possibility that research will be hampered by the proposed controls. However, most research organisations will already have current licences which will permit access to MPA for research purposes.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs:	**Benefits:**	**Net:** 0	

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

1.1. This Impact Assessment assesses the proposal to re-make a temporary class drug order for N-methyl-1-(thiophen-2-yl)propan-2-amine (MPA), including stereoisomeric forms, salts, preparations and products, under the Misuse of Drugs Act 1971 (Temporary Class Drug) Order 2016.

1.2. On 18 November 2015, the ACMD provided initial advice on the harms and misuse of MPA pursuant to Section 2B of the 1971 Act (which contains provisions on temporary class drug orders and the role of the ACMD).

1.3. On 27 November 2015, a TCDO came into force to temporarily control MPA, including all salts, stereoisomeric forms, preparations and products, whilst the ACMD completed its assessment of harms and made recommendations for permanent control.

1.4. The current TCDO is due to lapse on 26 November 2016. However, the ACMD has not been able to gather sufficient evidence on MPA to make recommendations for permanent control within 12 months. This has been due to the difficulty in finding significant data relating to harms, seizures and prevalence of MPA since the first report published on MPA, and since the original introduction of the TCDO. As such, the ACMD has recommended the TCDO is made for an additional 12 months to allow time to gather and consider more evidence and to make a substantiated recommendation.

Methiopropamine (MPA)

1.5. MPA is a stimulant compound which has been visible on the new psychoactive substances market since 2011. The ACMD's initial 2015 assessment indicated that MPA had replaced a group of seven compounds based on methylphenidate (a class B drug), as an injecting drug of choice since the methylphenidate-based compounds were subject to temporary control earlier in 2015, particularly in the Edinburgh area. The ACMD highlighted that such practices were likely to lead to a high risk of bacterial infection and local tissue damage.

Prevalence

1.6. MPA was first reported to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) following an alert in January 2011 by Finland. MPA seizures have since been reported throughout Europe.

1.7. The United Kingdom first issued alerts in 2012 when the national Focal Point reported three cases involving deaths associated with this substance.

1.8. Between April and June 2015, data from the National Crime Agency showed there were 45 seizures of MPA.

1.9. FRANK received 29 queries in relation to MPA during the period October 2014 - September 2015.

1.10. In 2014, 7 cases had been reported where MPA was implicated in death, in combination with a variety of other NPS.

1.11. In its most recent advice, the ACMD commented that the TCDO has been effective in halting the problematic proliferation of MPA, particularly in areas in Scotland where instances had been reported previously. Although anecdotal, the evidence indicates that the prevalence and the use seen prior to the TCDO seem to have abated, particularly in relation to intravenous administration. In particular:

- Police Scotland, who initially alerted the ACMD to the possible displacement of MPA from ethylphenidate, have reported reduced instances of injecting MPA;
- the number of phone call and database enquiries to TOXBASE (part of National Poisons Information Service which provides NHS healthcare professionals with a 24-hour, year-round clinical toxicology information service) regarding MPA have reportedly decreased;
- and there has been a reported decrease in the availability of MPA on online markets

1.12. It is expected that minimal costs arising from option 2 will be subsumed into the law enforcement and regulatory response to the control of other drugs under the Misuse of Drugs Act 1971.

Harms

1.13. MPA shows similar properties as methamphetamine: stimulation, alertness and an increase of energy and focus. Side effects reported include tachycardia, anxiety, panic attacks, perspiration, headaches, nausea, difficulty breathing, vomiting, difficulty urinating and sexual dysfunction.

1.14. MPA is reportedly taken orally, by inhalation, snorting, administering rectally, and by injecting, with the dosage ranging between 5-60 mg depending on the route of administration. The onset of effects vary depending on the route of administration and generally last between 2-4 hours but can persist for up to 24 hours.

1.15. The National Programme of Substance Abuse Deaths (NPSAD) reported 30 cases where MPA was found in post mortem toxicology, between 2012 and 2015. In 22 of these, MPA was implicated in the cause of death.

1.16. Hospital admissions for MPA have been reported in the US and in Europe, with symptoms including anxiety, paranoia and vomiting.

1.17. One fatal case was reported in Sweden, where the concentration of MPA was 1.4g/g in femoral blood. Twenty-one non-fatal cases were reported in 2013.

Wider uses

1.18. Following consultation with the Department for Business, Energy and Industrial Strategy (BEIS), the Medicines and Healthcare products Regulatory Agency (MHRA) and the chemical and pharmaceutical industry, MPA and related substances have been identified as having no legitimate industrial or medicinal use. The MHRA also confirms that there are no marketing authorisations for medicines containing this compound.

ACMD recommendation

1.19. In light of the initial assessment in 2015 of potential health harms and the risks implied of the compound MPA, the ACMD recommended that MPA and related substances should be subject to a temporary class drug order. The ACMD's assessment detailed that the compound is a drug that is being, or is likely to be, misused, and that misuse is having, or is capable of having, harmful effects. As such, on 27 November 2015, a TCDO was introduced to temporarily control MPA, including all salts, stereoisomeric forms, preparations and products, whilst the ACMD completed its assessment of harms and made recommendations for permanent control.

1.20. The current TCDO is due to lapse on 26 November 2016. However, the ACMD has not been able to gather sufficient evidence on MPA to make recommendations for permanent control within 12 months. This has been due to the difficulty in finding any significant data relating to harms, seizures and prevalence of MPA since the first report published on MPA, and since the original introduction of the TCDO. As such, the ACMD has recommended the TCDO is made for an additional 12 months to allow time to gather and consider more evidence and to make a substantiated recommendation.

1.21. In line with its statutory duties and the joint working protocol, the ACMD will continue to gather all available evidence while the temporary class drug order is in force. It will aim to provide a full independent expert assessment of the harms of MPA, including societal harms, to recommend whether it should be subject to permanent control under the 1971 Act, all within the timeframe afforded by the TCDO.

Description of controls

1.22. Under the Misuse of Drugs Act 1971, on indictment the maximum penalties for offences relating to drugs which are subject to a temporary class drug order are - for supply, production, importation/exportation up to fourteen years' and/or an unlimited fine. On summary conviction, the maximum penalties for offences relating to supply, production or importation/exportation are six months' imprisonment and/or a prescribed fine (including, for the latter offences, one determined by the value of the drugs if greater than the prescribed amount).

1.23. There is no offence or penalty for simple possession of a temporary class drug order. However, under Section 23A of the 1971 Act, law enforcement officers have been given the following powers to:

- search and detain a person (vehicle or vessel) where there are reasonable grounds to suspect that the person is in possession of a temporary class drug;
- seize, detain and dispose of a suspected temporary class drug; and
- arrest or charge a person who commits the offence of intentionally obstructing an enforcement officer in the exercise of their powers in respect of temporary class drugs.

A.2 Groups Affected

1.24. The proposal to temporarily control MPA and related substances may affect groups making legitimate use of any of these substances, such as organisations which use and produce chemical standards for research and forensic purposes. This is consistent with activities relating to drugs listed in Schedule 1 of the Misuse of Drugs Regulations 2001, which are subject to Home Office licensing by application from a new producer/supplier (as well as for import/export activities).

1.25. There will be minimal impact on the illicit market in drugs ('head shops' and internet suppliers) as they currently would not be able to sell, produce or import/export these substances to be consumed for psychoactive effects under the controls of the Psychoactive Substances Act 2016. The stricter regime of control under a TCDO is likely to make it even more difficult for them to operate and as such will be of benefit.

1.26. UK law enforcement and criminal justice agencies will be affected as there may be minimal costs and resource implications arising from option 2. However, it is expected that this will be subsumed into the enforcement and regulatory response to similar drugs permanently controlled under the 1971 Act. In addition, the minimal costs related to option 2 are likely to be offset by the lower evidential burden as forensic testing and expert advice will not be required to determine whether MPA is capable of having a psychoactive effect, and whether it is being sold for human consumption.

1.27. Health services may be affected in that they face reduced demand for services resulting from reduced consumption of these substances.

A.3 Consultation

Within Government

1.28. The Home Office has consulted with the MHRA, BEIS and the chemical/pharmaceutical industry in informing the choice of preferred option. As noted above, the consultees were content because no legitimate uses were identified.

Public Consultation

1.29. The Government has considered the recommendations of the Advisory Council on the Misuse of Drugs.

B. Rationale

2.1. The misuse of drugs imposes a cost on society in excess of the individual costs to users. A 2013 Home Office study estimated that the total social and economic costs of illicit drugs in 2010/11 was £10.7bn, which included £5.8bn in drug-related crime costs and around £2bn in criminal justice system and health service costs. The latter includes costs associated with injection, like hepatitis C and HIV treatment costs, and hence is relevant to these substances. In addition, users are not always aware of the costs associated with particular drugs due to the novelty of the substances. Whilst the ACMD has reported that there are indications that MPA may be capable of causing harm, the ACMD needs to undertake further evidence gathering to make a full assessment of the harms and make recommendations for permanent control. Government intervention to restrict the supply of MPA, including all salts, stereoisomeric forms, preparations and products, can therefore reduce potential costs and harms to the individual.

2.2. Invoking a TCDO, as opposed to allowing the substances to be covered under the Psychoactive Substances Act, provides a more effective restriction of their supply as follows:

a. A TCDO utilises the stricter offences of production and distribution under any circumstances without a licence. The offences in the 2016 Act only prohibit the production and distribution of psychoactive substances to be consumed for psychoactive effect. The TCDO option therefore provides a clearer legal framework to restrict the supply of particular substances even more narrowly than the 2016 Act.
b. The maximum penalty for committing an offence involving a temporary control drug is 14 years imprisonment. This contrasts with the 7 year maximum sentence under the 2016 Act. These higher tariffs may prove a stronger deterrent to the supply of these substances.
c. The 2016 Act provides a non-substance specific approach with lighter touch exemptions, most notably with regard to healthcare related activities and research. Where there are no legitimate uses for specified drugs (as in this case), TCDO requires licence to be issued to allow exemptions to offences and this would only be for research or other special purpose.

2.1. These differences reflect that the drugs placed under a TCDO have gone through an initial assessment by the ACMD and are considered as being, or likely to be, misused and that misuse is having, or is capable of having, harmful effects.

C. Objectives

3.1. The policy objective is to protect the public from the harms associated with MPA while the ACMD conducts a full independent assessment on whether their harms and effects warrant permanent control under the 1971 Act.

3.2. A successful outcome will be a reduction in the demand, availability and misuse of these compounds and raised awareness of the harms of these new psychoactive substances. The ACMD reports that the current TCDO has already had the desired effect as the prevalence and the use seen prior to the introduction of the TCDO seem to have abated, particularly in relation to intravenous administration, in areas in Scotland where instances had been reported previously**.**

D. Options

4.1. Two options have been considered in respect of these substances:

OPTION 1: Do nothing and allow MPA to be covered under the Psychoactive Substances Act 2016.

OPTION 2: Re-make the temporary class drug order under Section 2A to the Misuse of Drugs Act 1971, whilst the ACMD assess harms.

The Government's preferred option is option 2, which is aligned with the ACMD's advice. The use of the 1971 Act and its Regulations to temporarily control MPA provides the best means to reduce availability and potential harm to the public.

E. Appraisal

OPTION 1:

There are costs associated with the option to allow the compound to be covered under the Psychoactive Substances Act 2016. Forensic testing and expert advice will be required to determine whether the substance is capable of having a psychoactive effect (the evidential requirement under the Act). However, this is the baseline option, meaning that the costs and benefits of option 2 are assessed relative option 1 (i.e. additional costs and benefits above the do nothing scenario).

COSTS

Business

5.1. Following consultation with BEIS, the MHRA and the chemical and pharmaceutical industry, MPA has been identified as having no legitimate industrial or medicinal use. As a result, no wide impacts/costs on legitimate businesses are expected.

5.2. Whilst the open trade in psychoactive substances to be consumed for their psychoactive effect would be restricted by the Psychoactive Substances Act 2016 (option 1), this

leaves open a theoretical market for other uses. Temporary control under the Misuse of Drugs Act restricts supply for any purpose and provides a very clear message on the legal status of the substance, including all salts, stereoisomeric forms, preparations and products. This may restrict the illicit supply of MPA even further.

Public Sector (enforcement agencies, CJS, regulators)

5.3. Any real and opportunity costs associated with option 2 cannot be predicted in light of limited data on the prevalence and use of the listed substance to be controlled in the UK. It is expected that minimal costs arising from restricting supply using the stricter regime provided by a TCDO (option 2) will be subsumed into the law enforcement and regulatory response to the control of other drugs under the Misuse of Drugs Act 1971. As such the law enforcement response can reasonably be managed within existing resources, informed by policy and operational prioritisation. The police and other law enforcement agencies will prioritise resources towards tackling crime, including drug related crime, with a focus on those offences which cause the most harm. As such, operational activity may focus on Class A and B drugs as well as new psychoactive substances under temporary control.

5.4. Although minimal costs are expected to arise from option 2, the costs will be offset by savings from the evidential burden associated with option 1. Allowing MPA to lapse to coverage under the Psychoactive Substances Act is likely to make prosecutions under the Act more expensive as there is a requirement under the Act to prove the substance is psychoactive and is being sold for human consumption.

Personal and society

5.5. It is unlikely that personal costs will differ significantly between options 1 and 2, which would both have a restrictive effect on the supply of these substances. We are unable to monetise these costs due to a lack of information on the current size of the market in this substance.

BENEFITS

Business

5.6. No benefits accrue to businesses from this policy.

Public Sector (enforcement agencies, CJS, regulators)

5.7. Whilst it is difficult to compare the costs with the enforcement under the Psychoactive Substances Act 2016, the greater evidential burden under that Act means that further forensic testing and expert evidence are required to discharge the evidential burden. These costs are difficult to monetise, but are likely to make prosecutions more expensive under the 2016 Act. As such the costs of enforcement under a TCDO are likely to be lower for enforcement agencies, particularly as it will simply involve maintenance of the current temporary controls.

5.8. Benefits are expected to arise from consistency in enforcement and regulatory response to harmful substances. Although the ACMD awaits a stronger evidence base, MPA is believed to have a similar level of harm to other substances currently listed under the Misuse of Drugs Act. This includes methamphetamine, from which MPA is chemically related, which is currently a class A drug. Restricting supply through a TCDO means there are more strictly defined offences, wider powers for enforcement and stronger penalties which may act as a stronger signal to the public. To support this, the ACMD reports that the TCDO has been effective in halting the problematic proliferation of MPA, particularly in areas in Scotland where instances had been reported previously.

5.9. Benefits accruing to the public sector may arise from savings to be made through a reduction in the number of people seeking medical assistance due to the misuse of MPA. These savings cannot be quantified due to the novelty of the substance in relation to long-term/chronic use and the novelty of the challenges that it poses to healthcare and treatment services in light of the harms that it can cause.

Personal and society

5.10. Broadly, the effect of options 1 and 2 will be similar in this regard. As noted above though, the TCDO may restrict the supply of the compounds even further than the Psychoactive Substances Act 2016. Personal benefits arise from this direct protection against potential harms of MPA through reduced availability. This will also benefit society through reduced costs to the NHS.

5.11. In contrast to the blanket ban approach of option 1, it is expected that re-making the TCDO for the substance will also reinforce to the public the potential harms by underlining that harms have been initially assessed as posing a risk similar to that of a currently controlled drug (methamphetamine). This specific targeting may reduce the harms caused by the substance, as alluded to by the ACMD's evidence of the effect of the current TCDO. The 2016 Act contains no such harms assessment and does not differentiate in the legislation itself between the harms of specific drugs.

5.12. Society will be protected against possible externalities resulting from people who have taken MPA and its related substances.

5.13. A TCDO may result in more targeted action from law enforcement which could reduce the anti-social behaviour linked to these substances.

NET EFFECT

5.14. Overall it is considered likely that the benefits from the proposals will outweigh the costs, although it has not been possible to quantify these benefits and costs. The main benefits to arise from the proposals are:

- Providing enforcement agencies with wider powers, stricter offences and higher penalties for the trafficking of MPA. This in turn is likely to make it easier for them to restrict the supply of the substance than under option 1.

- Reinforcing public awareness of the harms associated with the misuse of MPA, by specifying it as substances of concern in the legislation, in contrast to the blanket ban approach of the 2016 Act.

F. Risks

6.1. As referred to by the expert panel on new psychoactive substances, there are risks associated with option 2 on the basis of evidence and expert advice that the 'legal high' market will look to synthesise and advertise chemical derivatives of the compound, or alternative new psychoactive substances imitating its effects, to circumvent temporary drug control. However, this risk will be mitigated by the Psychoactive Substances Act 2016 which now makes it a criminal offence to produce, sell, supply and distribute psychoactive substances in the UK to be consumed for their psychoactive effect.

6.2. There is also a limited risk that voluntary, charity or private sector research organisations or institutions: manufacturers, distributors and wholesalers that produce, supply, import or export these substances or use them for the synthesis of non-controlled pharmaceuticals may become adversely affected due to the potential costs of updating or applying for a license. However, organisations dealing with permanently controlled scheduled drugs will already possess a licence to undertake activities involving temporary class drugs which are treated as those listed under Schedule 1 to the Misuse of Drugs Regulations 2001. Due to the absence of evidence of legitimate business use and the negligible costs that would be associated with any use, the assumption is made that there are no cost implications to business.

G. Enforcement

7.1. Enforcement of the proposed legislation will be undertaken by Police Forces, the Border Force, the Home Office Drug Licensing Unit and other relevant agencies responsible for enforcing the legislative and regulatory framework for controlled drugs in the UK. Police enforcement will form part of their wider approach to tackling new psychoactive substances as well as other drug controlled under the 1971 Act. The UKBF will enforce import controls by seizing suspected substances at the ports, also as part of their wider customs role. There will be no interference with the regulatory framework and processes implementing temporary control measures in law enforcement and regulatory agencies as part of their routine activities.

H. Summary and Recommendations

8.1. The table below outlines the costs and benefits of the proposed changes.

Table H.1 Costs and Benefits

Option	Costs	Benefits
2	£NK	£NK

	- There are no significant costs to the preferred option.	- The TCDO is likely to be less resource-intensive to enforce than the 2016 Act and provides wider powers, producing a more restrictive effect on supply. - Reinforcement of public awareness of the harms of the substances by making clear they are of concern and providing stricter penalties for offences.

8.2. Allowing the TCDO to lapse on 26 November 2016 would mean the compound in question will be covered under the Psychoactive Substances Act.

8.3. Option 1 is the least preferred option. The Psychoactive Substances Act is a very different control regime, aimed at those substances which have not had their harms assessed. It contains lower penalties, more narrowly defined offences and a higher evidential burden for prosecuting agencies. To allow the substance to lapse to coverage under the Psychoactive Substances Act 2016 would not be commensurate with the assessment of harm that the ACMD has already made. Forensic testing and expert advice will be required to determine whether the substance is capable of having a psychoactive effect (the evidential requirement under the Act). The costs of testing, and length of time it will take, are difficult to monetise, and will depend on operational requirements, but will make prosecutions more expensive under the 2016 Act. However, the lower penalties, specific *mens rea (*proof of intention, recklessness or knowledge of the offender to supply a psychoactive substance for human consumption), civil penalties and no possession offence act as a weaker signal to the public.

8.4. Option 2 is the preferred option and is aligned with the ACMD's advice. The use of the 1971 Act and its Regulations to temporarily control the listed substance provides the best means to reduce availability and potential harm to the public. The TCDO will provide a higher level of control with more strictly defined offences, wider powers for enforcement and stronger penalties than the Psychoactive Substances Act 2016. The costs associated with a TCDO are likely to be much lower for enforcement, particularly as it will simply involve maintenance of the current temporary controls. The resultant clear message to the public that this compound is likely to have harms commensurate with controlled drugs may also assist in dissuading the use.

I. Implementation

9.1. The Government plans to implement these changes on 27 November 2016, via the made affirmative resolution, subject to debates in both Houses of Parliament within 40 sitting Parliamentary days from which the temporary class drug order is laid.

J. Monitoring and Evaluation

10.1. As part of its statutory duties under the 1971 Act the ACMD keeps the situation relating to drugs under review. Together with the Government, they will continue to monitor MPA by gathering data on prevalence and misuse (particularly whilst under temporary drug control) through UK and EU drugs early warning systems, the health sector and the regulatory framework governing legitimate activities (predominately research) in relation to these drugs. The Home Office, as the regulatory authority on licensing of activities relating to all controlled drugs and as lead department working with other Government departments to deliver the Drug Strategy, will continue to monitor the situation in relation to compliance with the regulatory framework.

K. Feedback

11.1. No feedback will be sought from suppliers or users as a result of the lack of medical and industrial uses of these substances. The ACMD will undertake a full assessment of the substances for consideration for their permanent control under the 1971 Act.