

EXPLANATORY MEMORANDUM TO
THE MISUSE OF DRUGS ACT 1971 (AMENDMENT) (No. 2) ORDER 2014

2014 No. 3271

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order in Council (“the Order”) classifies the following drugs as Class A drugs under Part 1 Schedule 2 of the Misuse of Drugs Act (“the Act”);

- 3,4-dichloro-*N*-[[1- (dimethylamino)cyclohexyl]methyl]benzamide (AH-7921),
- (6*aR*,9*R*)-4-acetyl-*N,N*-diethyl-7-methyl-4,6,6*a*,7,8,9-hexahydroindolo[4,3-*fg*]quinoline-9-carboxamide (ALD-52),
- (6*aR*,9*R*)-*N,N*-diethyl-7-ethyl-4,6,6*a*,7,8,9-hexahydroindolo[4,3-*fg*]quinoline-9-carboxamide (ETH-LAD),
- (6*aR*,9*R*)- *N,N*-diethyl-7-propyl-4,6,6*a*,7,8,9-hexahydroindolo[4,3-*fg*]quinoline-9-carboxamide (PRO-LAD),
- (6*aR*,9*R*)- *N,N*-diethyl-7-allyl-4,6,6*a*,7,8,9-hexahydroindolo[4,3-*fg*]quinoline-9-carboxamide (AL-LAD), and
- 2,4-dimethylazetidinyll{(6*aR*,9*R*)-7-methyl-4,6,6*a*,7,8,9-hexahydroindolo[4,3-*fg*]quinolin-9-yl}methanone (LSZ)

2.2 The Order also extends the definition used to capture tryptamines for control at paragraph 1(b) Part 1 of Schedule 2 to the Act by replacing it with a new definition.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This Order replaces the Order of the same title that was laid before Parliament and published on 16th July 2014 but was withdrawn on 30th October 2014 before being debated by either House of Parliament. This was necessary in order to correct a technical error in each of the chemical definitions of the LSD related hallucinogenic compounds (ALD-52, ETH-LAD, PRO-LAD, AL-LAD and LSZ), which originated from the recommendation made by the Advisory Council on the Misuse of Drugs (ACMD).

4. Legislative Context

4.1 The Misuse of Drugs Act 1971 (“the 1971 Act”) controls drugs that are “dangerous or otherwise harmful”. Schedule 2 to the 1971 Act specifies these drugs and groups them in three categories – Part 1 lists drugs known as Class A drugs, Part 2 lists Class B drugs, and Part 3 lists Class C drugs. The three-tier system of classification (A, B and C) provides a framework within which criminal penalties are set with reference to the harm a drug has or is capable of having when misused and the type of illegal activity undertaken in regard to that drug.

4.2 Section 2 of the 1971 Act enables amendments to be made to the list of drugs controlled under the Act by means of an Order in Council. Section 2 also provides that the Secretary of State may not recommend the making of such an Order except after consultation with the ACMD.

4.3 The classification of the drugs listed in paragraphs 2.1 and 2.2 above is predicated on an assessment of their respective harms and in accordance with recommendations made by the ACMD.

4.4 AH-7921 is a potent synthetic analgesic which has no known or recognised legitimate use. The ACMD reports that AH-7921 has potency similar to morphine and is highly addictive. The ACMD considers that AH-7921 is a drug that is being, or is likely to be, misused, and that misuse is having, or is capable of having, harmful effects.

4.5 ALD-52, ETH-ALD, PRO-LAD, AL-ALD and LSZ are LSD related hallucinogenic compounds. There are no known legitimate or recognised uses of these compounds beyond potential research. The ACMD considers that these drugs are being, or are likely to be, misused, and that misuse is having, or is capable of having, harmful effects.

4.6 The tryptamines are hallucinogens, a large number of which are currently controlled under the 1971 Act as Class A drugs via generic (group) definition. The ACMD reports that in recent years there has been significant interest in hallucinogens of this type. The ACMD considers that the compounds to be captured by the extended generic definition are being, or are likely to be, misused, and that misuse is having, or is capable of having, harmful effects.

4.7 The ACMD has been consulted, as required by statute, on the above changes.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister for Crime Prevention, Lynne Featherstone MP, has made the following statement regarding Human Rights:

“In my view, the provisions of the Misuse of Drugs Act 1971 (Amendment) (No. 2) Order 2014 are compatible with the Convention rights.”

7. Policy background

- *What is being done and why*

7.1 AH-7921 was developed by a pharmaceutical company in the UK more than 40 years ago. The compound was not developed further, presumably because animal studies revealed a high addictive potential. The ACMD reports that AH-7921 has potency similar to morphine and is highly addictive. Harms from AH-7921 misuse are reported as severe pain, difficulty in breathing and risk of death. The ACMD also

reports that it is not aware of any acute toxicity reports in the UK. However, in 2013 the National Programme on Substance Abuse Deaths reported three deaths involving AH-7921. The European Monitoring Centre for Drugs and Drug Addiction and Europol have also published a report in 2014 which confirmed ten deaths linked with AH-7921 across the EU. AH-7921 is being controlled as a Class A drug, as recommended by the ACMD, in recognition of the lack of legitimate uses and to protect the public from the harms associated with its misuse. The ACMD's advice in respect of AH-7921 is available at <https://www.gov.uk/government/publications/nps-report-ah-7921>.

7.2 The ACMD reports that ALD-52, ETH-ALD, PRO-LAD, AL-ALD and LSZ are LSD related hallucinogenic compounds with similar harms to LSD but currently fall outside control under the 1971 Act. The ACMD reports that these substances have recently become more popular and are being offered for sale on specialist web sites devoted to hallucinogens. These hallucinogens are being controlled as Class A drugs, as recommended by the ACMD, in recognition of the lack of legitimate uses and to protect the public from the harms associated with their misuse.

7.3 The ACMD reports the physical effects of the tryptamine compounds as visual illusion, hallucination and euphoria amongst others. The ACMD reports that in recent years there has been significant interest in hallucinogens of this type. A number of these substances which fall outside of the current generic definition are offered for sale as new psychoactive substances. Two in particular, alpha-methyl tryptamine (AMT) and 5-methoxy daillyltryptamine (5-MeO DALT) have been routinely encountered through the Home Office's Forensic Early Warning System. The ACMD also reports a small number of confirmed post mortem toxicology reports rising from 1 in 2009 to 4 in 2013, with AMT being the most frequently linked to reported tryptamine deaths. The extended definition of the tryptamines will control these compounds and other related compounds as Class A drugs, in recognition of their lack of legitimate uses and to protect the public from the harms associated with their misuse. The ACMD's advice in respect of the tryptamines and LSD related hallucinogens is available at <https://www.gov.uk/government/publications/nps-reports-on-tryptamines-and-ah-7921>.

- ***Consolidation***

7.4 None.

8. Consultation outcome

8.1 The Government has consulted its independent experts, the Advisory Council on the Misuse of Drugs. The ACMD has recommended control of the drugs being controlled following a review of their harms.

9. Guidance

9.1 The law changes and their consequences will be communicated to key stakeholders and the wider public. The Home Office will issue a Circular with legislative guidance primarily for the police and the courts.

10. Impact

10.1 There is no impact on legitimate business, charities or voluntary bodies, except for organisations undertaking research using these compounds. However, impact is minimised as these organisations are already likely to be handling controlled drugs, acting under Home Office licence or the Misuse of Drugs Regulations 2001, and guidance is already widely available in this area.

10.2 An Impact Assessment and Equality Impact Assessment are attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 The harm that can be done from misuse and diversion of these drugs is such that we will expect those offering these compounds for sale as new psychoactive substances to comply with the Misuse of Drugs Act 1971 and subordinate legislation made under it, however small the business. Impact on legitimate small research businesses is minimised as these businesses are already likely to be acting under Home Office licence.

12. Monitoring & review

12.1 The Government will monitor the control measures through the regulatory framework governing controlled drugs, and also through national data collection and surveys on drug misuse.

13. Contact

Des Niimoi at the Home Office, tel: 020 7035 3533 or e-mail: Desmond.Niimoi@homeoffice.gsi.gov.uk, can answer any queries regarding the instrument.