

**ADVICE TO  
THE EXPERT ADVISORY COMMITTEE ON DRUGS  
ON:**

**Norephedrine**

**June 2010**

**PREPARED BY THE MINISTRY OF HEALTH**

## **Purpose**

The Secretariat has prepared this advice paper for 'out-of-session' consideration by the EACD on the scheduling of norephedrine as a Schedule 4 precursor substance. The purpose of the paper is to clarify which Part of Schedule 4 the EACD considers is appropriate for this scheduling.

## **Background**

On 13 November 2008, the EACD agreed to recommend to the Associate Minister of Health that norephedrine be classified as a Schedule 2, Part 2 (Class B2) controlled drug and a Schedule 4 precursor substance in the Misuse of Drugs Act 1975 (MoDA). The EACD did not specify in which Part of Schedule 4 norephedrine should be scheduled.

On 16 April 2010, the EACD reconfirmed its advice to the Minister following a request from the Minister for further information to support the classification of norephedrine as a Class B2 controlled drug. The Secretariat, however, omitted at the meeting to raise with the EACD the need to clarify the recommended Part of Schedule 4. A clarification on this is required before final advice can be provided to the Minister.

Currently, Parliamentary Counsel Office has been instructed to draft an Order in Council for norephedrine to be classified in Schedule 4, Part 1 which lists the majority of the primary precursors. However, the Misuse of Drugs Amendment Bill 2010 (the Bill) currently before Parliament, proposes, *inter alia*, to remove pseudoephedrine and ephedrine from Schedule 4, Part 1 but have them remain in Schedule 4, Part 3. The intention of the Bill in leaving these precursors in Part 3 is to allow for enforcement powers not provided for Class B2 drugs, or indeed for Schedule 4, Part 1 precursor substances.

## **Scheduling of Norephedrine**

There are three Parts listed under Schedule 4 of the MoDA:

### ***Schedule 4, Part 1***

Substances listed in Part 1 of Schedule 4 are the majority of primary precursor substances drawn mainly from Table I of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

The substances currently listed in Schedule 4, Part 1 are: Acetic anhydride; N-acetylanthranilic acid; Ephedrine; Ergometrine; Ergotamine; Isosafrole; Lysergic acid; 3, 4,-methylenedioxyphenyl-2-propanone; 1-phenyl-2 propanone; Piperonal; Potassium permanganate; Pseudoephedrine; and Safrole.

The salts of these substances are also covered by this Part whenever the existence of such salts is possible.

### **Schedule 4, Part 2**

Substances listed in Part 2 of Schedule 4 are chemical reagents drawn from Table II of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

The substances currently listed in Schedule 4, Part 2 are: Acetone; Anthranilic acid; Ethyl ether; Hydrochloric acid; Methyl ethyl ketone; Phenylacetic acid; Piperidine; Sulphuric acid; and Toluene.

The salts of these substances are also covered by this Part (other than the salts of hydrochloric acid and of sulphuric acid) whenever the existence of such salts is possible.

### **Schedule 4, Part 3**

The substances currently listed in Part 3 of Schedule 4 are ephedrine and pseudoephedrine and salts of these substances whenever the existence of such salts is possible.

Unlike the other parts of Schedule 4, Part 3 gives Police search and seizure powers, including warrantless searches, as defined by section 18 of the MoDA.

Any decision to place a substance in Part 3 of Schedule 4 requires careful consideration because of the significant powers it provides in terms of search and seizure without warrant. Pseudoephedrine and ephedrine have, over the last few years, been seen as a 'special case' and a number of scheduling and MoDA changes have been promulgated since 2003 to strengthen control over their availability and use due to the existence of a clearly defined problem.

### **Comment**

At this time there is no access to any justification that such powers granted under Part 3 of Schedule 4 are necessary in the case of norephedrine. If the EACD wishes to propose that norephedrine is listed in Part 3 of Schedule 4, this advice will be provided to the Minister in conjunction with the Committee's recommendation for a B2 classification.

Norephedrine is also listed in Table I of the 1988 UN Convention, so to place it in Part 1 would bring it into line with all other precursors listed in Table I of the Convention (with the anticipated exception of pseudoephedrine and ephedrine). If the EACD wishes norephedrine to be listed in Part 1 of Schedule 4, no additional advice to the Minister will be required.

### **Recommendations**

It is recommended that the EACD:

**Note:** that norephedrine would not be appropriately scheduled as a Schedule 4, Part 2 precursor substance, as it is considered a 'primary' precursor

**Agree:** that there is insufficient information available to justify the scheduling of norephedrine in Schedule 4, Part 3 at this time

**Agree:** to continue with the current proposed scheduling of norephedrine as a Schedule 4, Part 1 precursor substance.