

EACD discussion paper

Options for Presumption for Supply of Benzylpiperazine (BZP) and Related Piperazines

Produced by the Ministry of Health

Background

At the meeting of the EACD on 29 November 2006, the Committee agreed to recommend to the Associate Minister of Health that benzylpiperazine (BZP), phenylpiperazines and related substances be classified as Class C1 controlled drugs. The EACD is meeting on 14 March 2007 to determine whether a presumption for supply level of BZP and related piperazines is required and at what level.

The following paper is intended to assist the EACD in determining an appropriate presumption for supply level of BZP and related piperazines. The information provided is based on the assumption that the recommendations of the EACD are put forward by Government for approval by Parliament, and it is agreed that BZP and related substances be made Class C1 controlled drugs. A presumption for supply level can be set for these substances by the Order in Council and affirmative resolution process at the same time an amendment to the classification is brought into effect.

Presumption for supply

Section 6(6) of the Misuse of Drugs Act 1975 (MODA) provides for a rebuttable presumption that when a person is found with a certain amount of a controlled drug, he or she possesses the drug for the purpose of dealing (by sale or supply). The onus is on the person found with the drug to prove that he or she was not supplying the drug and that the drug was intended for personal use. This presumption is referred to as “the presumption for/of supply”.

Schedule 5 of MODA provides that the presumption for supply is set at a default amount of 56 grams for all controlled drugs, except those that have a specific presumption for supply listed in the schedule. A copy of Schedule 5 is appended to this paper. Controlled drugs with a specific presumption for supply level listed in Schedule 5 include heroin, cocaine, methamphetamine and MDMA. Cannabis is the only Class C drug currently listed with a specific presumption for supply level.

EACD requirements

The assessment of the amount of a substance above which it is presumed to be for supply is part of the evaluation required by the EACD and is a matter on which the Committee is required to report on pursuant to s5AA(2)(b)(ii) of MODA. The Committee is guided by a number of factors in making the required assessment, including:

- Informed knowledge of the quantities of a substance typically held by suppliers of that substance
- Comparative assessments of established presumption for supply levels of similar substances
- An assessment of the amount of a substance required to produce an effect, the number of doses a person would typically use over a period of time and the shelf life of the substance.

Other presumption for supply considerations

By class

The cannabis plant, the only current Class C drug listed in Schedule 5, has a presumption for supply level of “28 grams or 100 cigarettes containing the drug”. This is an historical listing which represents the pre-metric amount of one ounce of cannabis. The lower (moderate) risk of harm posed by Class C drugs in comparison to higher classifications may indicate that a low presumption for supply level is not appropriate.

By potency

BZP has been considered to have approximately 10 percent of the potency of dexamphetamine, therefore a case can be made in conjunction with the Class C classification, that a presumption for supply amount be set at a higher level commensurate with the lower potency of BZP. The potency of other piperazines is largely unknown.

By type

Other amphetamine-type (stimulant) substances specifically listed in Schedule 5 generally have presumption for supply levels of “5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug”. These include methamphetamine, amphetamines, MDMA and MDA. Piperazines are also stimulants with a similarity of action to amphetamines. The normal recreational single dose of BZP consumed is estimated at 130mg to 200mg and current commercial packages commonly contain 700mg to 1 gram of piperazines. Therefore 5 grams would represent approximately 25 to 40 doses and 5 to 7 packages.

It should be noted that a ‘blanket’ presumption for supply level for piperazines will not necessarily be consistent with the potency and effects across the range of these substances. While there is a growing body of evidence into the use and effects of BZP, there is little research into phenylpiperazines. However, TFMPP is considered to be active at lower doses than BZP, while PFPP and MCPP may be considerably more potent.

Presumption for supply of amphetamine

Presumption for supply levels were set for MDMA and amphetamines in June 2005. The presumption level for amphetamine was based on the fact that, for legal therapeutic use, the doses recommended for amphetamine use are only in the region of 5 to 10mg. Taking the upper level, 5 grams of pure amphetamine was thus the equivalent of approximately 500 doses. In the case of illicit use, intelligence indicated that amphetamine users commonly consume more than one tablet per session, sometimes up to five or more tablets over a 48-hour period. It followed that possession of 100 or more amphetamine tablets, capsules or other drug forms would (as a rebuttable presumption) be far in excess of ranges for personal use.

A presumption for supply of 5 grams or more for amphetamine, or 100 flakes, tablets, capsules or other drug forms, was considered consistent with the presumption for supply already set for the chemically related phenethylamines MDMA and MDEA, and the parent compound MDA [2-amino-1-(3,4-methylenedioxyphenyl) propane] under Schedule 5 of MODA.

Further, it aligned the presumption of supply for amphetamine with the levels agreed to by Ministers in 2002 for the related (Class A) substance methamphetamine. The presumption level for methamphetamine was set at "5 grams, whether or not contained in a substance, preparation or mixture". A 'point' of methamphetamine, the standard amount sold on the illicit market, is generally 100 mg. This would usually consist of 2 to 3 doses for a user, therefore 5 grams represents approximately 100 doses.

Penalties for Class C controlled drug offences

Dealing

Any person convicted of the importation, manufacture, sale or supply of a Class C controlled drug is liable to a term of imprisonment for up to 8 years.

Any person convicted of conspiracy to commit an offence is liable to a term of imprisonment for up to 7 years.

Possession

Any person convicted of possessing a Class C controlled drug is liable to a term of imprisonment for up to 3 months or to a fine not exceeding \$500, or both.

Misuse of Drug Act 1975 – Schedule 5**[Schedule 5****Amount, level, or quantity at and over which controlled drugs are presumed to be for supply**

SS 2(1A), 6(1)(f)

1	The controlled drugs listed in the first column are presumed to be for supply at and over the amount, level, or quantity listed in the second column.
[[Amphetamine]] Amphetamine	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Morphine	5 grams, whether or not contained in a substance, preparation, or mixture
Cocaine	half a gram, whether or not contained in a substance, preparation, or mixture
Heroin	half a gram, whether or not contained in a substance, preparation, or mixture
Lysergide	2 and a half milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
DOB (2-amino-1-(4-bromo-2,5-dimethoxyphenyl)propane) (also known as bromo-DMA)	100 milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MDMA (2-methylamino-1-(3,4-methylenedioxyphenyl)propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
NETHYLMDA (2-ethylamino-1-(3,4-methylenedioxyphenyl)propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MDA (2-amino-1-(3,4-methylenedioxyphenyl)propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Tetrahydrocannabinol (as described in Schedule 2)	250 milligrams, whether or not contained in a substance, preparation, or mixture
Any cannabis preparation (as described in Schedule 2)	5 grams or 100 cigarettes containing the drug
Cannabis plant (as described in Schedule 3)	28 grams or 100 cigarettes containing the drug
Methamphetamine	5 grams, whether or not contained in a substance, preparation, or mixture
2	Any controlled drug not specified in clause 1 is presumed to be for supply at and over the level of 56 grams.