

ROAD TRAFFIC (AMENDMENT) BILL 2010

COMMITTEE STAGE

Amendments to be moved by the Secretary for Transport and Housing

<u>Clause</u>	<u>Amendment Proposed</u>
4	By deleting everything after “amended” and substituting “by repealing “36(1), (3) and (4), 37(1) and (3), 38, 39(1), 39A, 39B, 39C” and substituting “36 (other than subsections (2), (2A), (2B), (2C), (2D) to the extent that it relates to minimum disqualification periods and (3)), 36A (other than subsections (2), (3), (4), (5), (6) to the extent that it relates to minimum disqualification periods and (9)), 37 (other than subsections (2), (2A), (2B), (2C), (2D) to the extent that it relates to minimum disqualification periods and (3)), 38, 39 (other than subsections (2), (2A), (2B) and (2C)), 39A (other than subsections (1A), (2), (2A), (2B) and (2C)), 39B (other than subsections (7), (7A), (7B) and (7C)), 39C (other than subsections (16), (16A), (16B) and (16C))”.”.
6(5)	In the proposed section 36(2E), by deleting everything after “committing the” and substituting— “offence— (a) the proportion of alcohol in the person’s breath, blood or urine is tier 3; or (b) any amount of a drug specified in Schedule 1A is present in the person’s blood or urine.”.
7	In the proposed section 36A(7), by deleting everything after “committing the” and substituting—

“offence—

- (a) the proportion of alcohol in the person’s breath, blood or urine is tier 3; or
- (b) any amount of a drug specified in Schedule 1A is present in the person’s blood or urine.”.

8(5) In the proposed section 37(2E), by deleting everything after “committing the” and substituting—

“offence—

- (a) the proportion of alcohol in the person’s breath, blood or urine is tier 3; or
- (b) any amount of a drug specified in Schedule 1A is present in the person’s blood or urine.”.

9 By adding before subclause (1)—

“(1A) Section 39(1) is amended, in the Chinese text, by repealing “以致” and substituting “其程度達到”.”.

14 (a) In the heading, by deleting “**Section 39H**” and substituting “**Sections 39H and 39I**”.

(b) In the English text, by deleting “is added” and substituting “are added”.

(c) By adding—

“39I. Amendment of Schedule 1A

(1) The Secretary for Transport and Housing may by notice in the Gazette amend Schedule 1A.

(2) A notice under subsection (1) is not to come into operation until after the time provided for the Legislative Council to debate the notice under section 34 of the Interpretation and General

Clauses Ordinance (Cap. 1) has expired.”.

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- (a) In the proposed section 69A(1)(b), by deleting “and”.
 - (b) By deleting the proposed section 69A(1)(c) and substituting—
 - “(c) the court or magistrate sentences the person to undergo a term of imprisonment or detention and the sentence is not suspended; and”.
 - (c) In the proposed section 69A(1), by adding—
 - “(d) the court or magistrate orders that the person be disqualified for a fixed period.”.
 - (d) In the proposed section 69A(2), by deleting “person is released from custody” and substituting “expiration of the term of imprisonment or detention, or of any other term of imprisonment or detention which the person is undergoing at that expiration, or has been previously sentenced to undergo (whichever is the later)”.
 - (e) In the proposed section 69A, by adding—
 - “(3A) Subject to subsection (3B), a person is disqualified by this section for the whole of any day during which or during part of which the person is released from custody before the disqualification period is to start to run by virtue of a direction given under subsection (2) and any such day must be deducted from the period of disqualification to be served by the person.
 - (3B) The court or magistrate may direct that a person is not disqualified by this section during any period of release from custody of a kind referred to in subsection (3E)(a) (admission to bail pending sentence or appeal).
 - (3C) Subsection (3A) ceases to operate if the period of disqualification becomes exhausted because of deductions made under that subsection. In such a case the disqualification period

does not start to run in accordance with the direction of the court or magistrate and must be taken for all purposes to have been served.

(3D) For the purpose of subsection (3C), each 30 days deducted under subsection (3A) is to be treated as being equal to a month.

(3E) Without limiting subsection (3A), a person must be taken to be released from custody for the purposes of this section during any period that he or she—

- (a) is, following his or her conviction of the relevant scheduled offence, admitted to bail pending sentence or appeal;
- (b) is released from prison or detention on leave of absence granted under—
 - (i) section 12A of the Prisons Ordinance (Cap. 234);
 - (ii) rule 17(1) of the Prison Rules (Cap. 234 sub. leg. A);
 - (iii) regulation 14(1) of the Detention Centres Regulations (Cap. 239 sub. leg. A);
 - (iv) regulation 13(1) of the Drug Addiction Treatment Centres Regulations (Cap. 244 sub. leg. A);
 - (v) regulation 18(1) of the Training Centres Regulations (Cap. 280 sub. leg. A); or
 - (vi) section 17(1) of the Rehabilitation Centres

Regulation (Cap. 567 sub. leg. A);

- (c) is released from imprisonment under section 7(1) or (2) of the Prisoners (Release under Supervision) Ordinance (Cap. 325);
- (d) is released under an order made under section 15(1)(b) of the Long-term Prison Sentences Review Ordinance (Cap. 524); or
- (e) while undergoing a period of residence at a rehabilitation centre referred to in section 3(b) of the Rehabilitation Centres Ordinance (Cap. 567), is engaged in activities outside that centre under permission granted under section 5(1) of that Ordinance.”.

New

By adding—

“21A. Schedule 1A added

The following is added—

“SCHEDULE 1A [ss. 36, 36A,
37 & 39I]

DRUGS

1. Heroin (or its metabolites 6-acetylmorphine or morphine)
2. Ketamine
3. Methylamphetamine

4. Cannabis (or its active ingredient tetrahydrocannabinol)
5. Cocaine (or its metabolite benzoylecgonine)
6. 3,4-methylenedioxymethamphetamine (MDMA)".".