

**For discussion
23 July 2010**

LEGISLATIVE COUNCIL PANEL ON TRANSPORT

Initial Proposals to Combat Drug Driving

Purpose

The Government is very concerned about the recent traffic accidents caused by driving under the influence of drugs, particularly drugs of abuse. We are determined to introduce measures as soon as possible to vigorously combat drug driving. This paper briefs Members on our initial proposals to combat drug driving.

Background

2. According to statistics provided by Government Laboratory based on data relating to the autopsy results of drivers who died in traffic accidents¹, as shown in **Annex A**, an annual average of 8 drivers who died in traffic accidents, representing 24% of the drivers investigated were found to have drugs in their body system, although it remains unknown whether the drugs affected the drivers' driving ability or caused the accidents. Separately, according to the Police's figures, there were 2 and 1 traffic accident(s) involving driving under the influence of drugs in 2008 and 2009 respectively. In the first six months of 2010, there were 8 such traffic accidents, which accounts for 0.12% of all traffic accidents in the same period. Although the numbers of traffic accidents involving driving under the influence of drugs are small, they may not reflect the full scale of the problem of drug driving because of the enforcement difficulties as explained below. Besides, there appears to be a rising trend of drug driving cases in 2010, especially if all arrest cases on driving under the influence of drugs (but may not involve traffic accidents) are taken into account. Detailed statistics on numbers of arrests and traffic accidents involving driving under the influence of drugs are at **Annex B**.

¹

In the past 3 years, out of the 46 drivers killed annually on average in traffic accidents, about 70% were referred to the Government Laboratory for forensic analysis. A traffic accident is defined as an accident reported to the Police that involves personal injury occurring on roads in which one or more vehicles are involved.

3. Currently under section 39 of the Road Traffic Ordinance (RTO), Cap. 374, it is an offence for a person to drive a motor vehicle on any road under the influence of drugs to such an extent as to be incapable of having proper control of the motor vehicle. This provision covers all kinds of drugs. However, under the existing legislation, there is no provision to require drivers who are suspected to have taken drugs to submit to preliminary tests, to give blood samples or to provide other body fluid specimens for analysis. A charge under section 39 is therefore difficult to prove in cases where there is an absence of objective evidence or where the circumstantial evidence is not sufficient.

4. To enhance road safety, the Secretary for Transport and Housing announced in end January 2010 that the Government would draw up preliminary proposals in around mid year to combat drug driving. The Transport and Housing Bureau set up an inter-departmental Working Group² in early 2010 to pursue the matter.

Combating Drug Driving

5. There are many types of drugs and people's reactions to drugs are different. Combating drug driving involves complex legal and practical issues which would affect the majority of the driving population. We need to be very careful in drawing up new offences and the accompanying enforcement powers in order to ensure that on one hand, drivers who drive while being influenced or impaired by drugs may be effectively prosecuted and road users could be protected, and on the other hand, safeguards are built in to ensure that the legitimate rights of the drivers would not be adversely affected. Also, there is a need to search for a preliminary test to facilitate effective enforcement and to increase the deterrent effect to potential offenders.

Overseas practices

6. The Working Group has researched into overseas experience in tackling drug driving³, which are summarised in the table at **Annex C**. Most of the

² The Working Group, chaired by Transport and Housing Bureau, comprises members from the Security Bureau, the Police Force, the Transport Department, the Government Laboratory, the Department of Health and the Hospital Authority.

³ In February 2010, the inter-departmental Working Group sent a delegation to Victoria, Australia to study on the ground how their Police authority enforces drug driving as well as how the Monash University researches the effects of drugs on drivers who have taken drugs.

overseas jurisdictions studied have an offence in their traffic legislation that is similar to the section 39 offence of RTO in Hong Kong, i.e. driving while under the influence of drugs, or driving while impaired by drugs. In some places such as Victoria in Australia, there is an additional offence of a person driving while having in his blood or other body fluid any concentration of a particular illicit drugs prescribed by legislation, i.e. zero tolerance on these drugs. At present, the number of illicit drugs prescribed under the legislation of Victoria is limited to three, namely methylamphetamine (ice), delta-9-tetrahydrocannabinol (THC, the active component of cannabis), and 3,4-methylenedioxymethamphetamine (MDMA or ecstasy).

7. In most of the places studied, the police authorities are empowered to require a driver suspected of drug driving to undergo some preliminary tests, which are either impairment test or oral fluid test or both. These preliminary tests would be an objective method to help the police officers establish reasonable suspicion in drug driving cases, and building on this reasonable suspicion, they may then require the suspected driver to give specimens of oral fluid or blood or other body fluid specimens for laboratory analysis to ascertain whether he has taken any drugs.

8. The impairment test is widely adopted in overseas countries including the UK, Belgium and Australia. It assesses whether a person is impaired. In the UK, the Police will perform a series of tests such as the pupil measure, and will instruct the driver to do the 'Romberg test' (which assesses the driver's balance and judgment of time) and 'Walk and turn test', etc. The steps involved are set out in **Annex D**. It is usually performed by trained police officers either on the roadside or at police stations. It can usually be completed within 20 minutes. The accuracy of the test tends to be higher if conducted indoor rather than on the roadside⁴.

9. The preliminary oral fluid test was firstly adopted in Victoria, Australia. A rapid oral fluid testing device is adopted, which tests whether certain types of drugs are present in a person's oral fluid, but does not measure impairment by or influence under drugs. It is performed by trained police officers on the roadside mainly for random drug testing. It takes about 5 minutes⁵. The oral

⁴ The accuracy (meaning the proportion of cases that are correctly diagnosed) is 66% according to Road Safety Research Report No. 63 'Monitoring the Effectiveness of UK Field Impairment Tests published by Department for Transport in 2006. In Victoria, Australia, impairment test must be conducted in a police station and video-recorded. The accuracy of the test administered in Victoria is about 95% according to the enforcement authorities of Victoria.

⁵ In Victoria, in the preliminary screening, the drivers will be asked to provide oral fluid sample to a test kit for testing the 3 prescribed illicit drugs. This takes about 5 minutes. If the result is positive, the drivers will be asked to get into a bus to do a second oral fluid test with another device. The first and second tests together take about 25 minutes.

fluid testing devices are relatively new, different reports have given different assessments on their accuracy which also depends on the type of drug that is tested⁶. The enforcement authorities of Victoria consider that the device's accuracy is satisfactory as a preliminary testing device.

Major Issues Considered

Effects of drugs on driving

10. According to the latest statistics from the Central Registry of Drug Abuse, the most commonly drugs of abuse in Hong Kong are, in descending order, heroin, ketamine, triazolam / midazolam / zopiclone, methylamphetamine (ice), cough medicine, cannabis, cocaine, MDMA (ecstasy) and nimetazepam. The proportions of drug abusers reported to abuse each of these drugs and the general effects of these drugs on driving are set out in **Annex E** and **Annex F** respectively. Almost all of these drugs⁷ are controlled under the Dangerous Drugs Ordinance (DDO), Cap. 134 and all of them could have serious adverse influence on a person's ability to control a vehicle properly such as body coordination, vision, cognition, judgment of distance and speed. hence causing danger to the driver himself and other road users. It is considered that maximum deterrent effect could be achieved if we adopt a "zero tolerance" control against the most commonly abused drugs, i.e. driving with any concentration of such drugs is prohibited. However, as some of these drugs, namely triazolam, midazolam, zopiclone, nimetazepam and cough medicine are

⁶ The 2006 report of the Road Side Testing Assessment (ROSITA) Study which was carried out by 6 countries in Europe and 7 centres in USA pointed out that the 9 rapid screening devices tested were unable to achieve an accuracy of over 95% for amphetamines, benzodiazepines and cannabis. According to the more recent DRUID (Driving under the Influence of Drugs, Alcohol and medicines) report on evaluation of oral fluid screening devices for drugs of abuse published in November 2009, "based on operational experiences in real life situations, the accuracy of an oral fluid screening device for the different substances should be 75% or more". This evaluation is one of the tasks of the EC funded road safety project DRUID. The report shows the result of a field trial with 13 oral fluid screening devices performed during traffic control activities of police officers in 6 European countries during the period from October 2006 to August 2008.

⁷ Heroin, ketamine, triazolam/midazolam, methylamphetamine, cannabis, cocaine, MDMA and nimetazepam are controlled under the DDO. The DDO also controls codeine. Common cough medicine contains codeine. However, pharmaceutical products containing therapeutic dosage of codeine – currently set at 0.5% or below – are exempted from the control of DDO but are subject to the controls of the Pharmacy and Poisons Ordinance (PPO) Cap.138 instead. Under the PPO, for preparations containing codeine at more than 0.1% but less than 0.2%, a record must be kept of every sale transaction in respect of the name and address and identity card number of the purchaser, and the name and quantity of the cough preparation sold. Preparations containing not less than 0.2% of codeine are subject to more stringent control and could only be obtained with doctor's prescription. Zopiclone is controlled under PPO.

either prescription drugs or may be bought over-the-counter and are widely used for medical treatment, we propose that the commonly abused drugs except those that have wide common use for medical treatment should be subject to “zero tolerance” control.

“Zero tolerance” control on drugs of abuse

11. The taking of drugs of abuse such as heroin, ketamine etc. is an illegal act under section 8 of the DDO. In order to achieve maximum deterrent effect for the sake of road safety, we recommend that a new offence, in addition to the current section 39 of Cap. 374, should be introduced to prohibit driving while having in the body of a driver any concentration of specified illicit drugs. The types of illicit drugs to be specified for “zero tolerance” control should include the most common drugs of abuse, namely heroin, ketamine, methylamphetamine (ice), cannabis, cocaine and MDMA (ecstasy) that have no or very limited medical use. These drugs are normally referred to as narcotics and psychotropic substances. Amongst them, only ketamine and cocaine have limited medical use⁸. A defence for people who use these drugs for medical treatment is proposed. The list of illicit drugs to be specified may be updated from time to time.

Overall control relying on an updated section 39

12. Apart from the above-mentioned drugs of abuse proposed to be subject to “zero tolerance” control, many other types of drugs may adversely affect a person’s ability to properly control a vehicle. For example, the common drugs of abuse triazolam/midazolam/zopiclone and nimetazepam will slow reactions and reduce concentration. People’s reactions to drugs are different and the effects may also be different when drugs are used in combinations. Hence it will not be possible to prescribe in the legislation the limits of each and every drug that may affect driving. Therefore, apart from the above-mentioned “zero tolerance” control, we suggest that another overall tier of control should be maintained to provide for an offence of driving under the influence of or when impaired by any drugs. This is similar to but more objective than the offence currently provided under section 39 of RTO. Prosecution’s case will be supported by expert advice on whether there is a causal relationship between the taking of a particular drug and the effect on driving behaviour on a case by case basis.

⁸ Ketamine is an anesthetic medication used in human and for veterinary use. There are four medical products containing ketamine that are registered in Hong Kong. Cocaine is occasionally used as an anesthetic. There is one medical product containing cocaine that is registered in Hong Kong. Both ketamine and cocaine are controlled under DDO.

13. Whether a person drives under the influence of or when impaired by drugs can be established by objective tests such as an impairment test. Since some people take drugs for medical purpose, we propose that a defence be provided for a person charged with the drug driving offence to prove that he does not know and could not reasonably have known the permissible non-prescription drug or the prescription drug, or the combination of those drugs, so found in his body would impair driving if consumed or used according to medical advice.

Preliminary tests for drugs

14. To effectively enforce drug driving offences, like the case in drink driving, it would be necessary to require the drivers who are suspected to drive under the influence of drugs to give blood and other body fluid specimens. To enable the police officers to screen out, using an objective method, suspected drivers for laboratory testing on presence of drugs, some preliminary tests would need to be conducted. It should be emphasised that the preliminary tests only screen out the drivers whom the police officers may require to undergo the next step of testing. A charge may only be laid if the presence of drugs is confirmed by detailed analysis of the driver's blood or other body fluid specimen in the laboratory.

15. The impairment test and oral fluid testing device are the two preliminary testing methods that are currently being adopted by overseas jurisdictions. The rapid oral fluid test technology only emerged recently and only a handful of developed economies have started gradually to adopt it in the last decade. The accuracy of the test is satisfactory according to the enforcement authorities of Victoria, but its accuracy in the local circumstances has to be established and tested. In addition, according to our preliminary research, there is no rapid oral fluid test device on ketamine currently available in the market for enforcement purposes. The impairment test, which is widely adopted in European countries, may be implemented within a relatively shorter period of time when the required facilities and training for police officers has been provided and the procedures have been drawn up. The impairment test tends to produce more accurate results and better evidence if conducted in indoor environment (such as in a police station). We propose that the impairment test should be adopted as the main preliminary test for drug driving offences. When a rapid oral fluid testing device suitable for local use has been developed, we may consider introducing it as a preliminary test for drug driving offences.

16. To sum up, we recommend that some kind of preliminary tests should be introduced into Hong Kong and that the Police should be empowered to conduct the impairment test or/and the rapid oral fluid test. If the rapid oral fluid test device on the most commonly abused drugs is not yet available on implementation, the impairment test would be the only preliminary test.

Initial Proposals

17. Against the above considerations, we have drawn up the following initial proposals, which are preliminary proposed amendments to RTO, Cap. 374, to combat drug driving-

- (a) section 39 of Cap. 374 on driving under the influence of drugs will be refined or new provisions to be introduced as necessary to stipulate that -
 - (i) it will be an offence to drive while having in his blood or other body fluid any concentration of specified illicit drug; the specified illicit drugs shall include the most commonly abused drugs in Hong Kong, i.e. heroin, ketamine, methylamphetamine ('ice'), cannabis, cocaine, and MDMA (ecstasy). They may be set out in a schedule to Cap. 374, and be updated from time to time as necessary; and
 - (ii) it will be an offence to drive under the influence of or when impaired by drugs;
- (b) to empower the Police to require a driver to take preliminary drug tests (impairment test or/and oral fluid test) if they have reasonable cause to believe that the driver is suspected to be influenced or impaired by drugs, are involved in a traffic accident, or have committed moving traffic offence;
- (c) if a driver fails the preliminary drug tests (i.e. either impairment test or oral fluid test), he will be required to provide blood and other body fluid specimens for laboratory testing with regard to the presence and amount of drugs; the results of the impairment test and his blood and other body fluid specimens will form the basis for determination of prosecution;

- (d) a driver who fails in the preliminary drug tests or refuses to provide blood and other body fluid specimens for laboratory testing will be required to surrender his driving licence to the Police for 24 hours as they are unfit for driving immediately;
- (e) it will be an offence for drivers to refuse to take the preliminary drug test or to refuse to provide blood and other body fluid specimens for laboratory testing;
- (f) it will be a defence for a person charged with the offence referred to in (a)(i) above to prove that the presence of specified illicit drug in the blood or other body fluid is a result of lawful use of the substance for medical treatment;
- (g) it will be a defence for a person charged with offence referred to in (a)(ii) above to prove that he does not know and could not reasonably have known the permissible non-prescription drug or the prescription drug, or the combination of those drugs, so found in his body would impair driving if consumed or used according to medical advice; and
- (h) the penalties for drug driving offences should generally be aligned with those for drink driving offences, and driving under the influence of or when impaired by the specified illicit drugs should be made a circumstance of aggravation in all dangerous driving offences⁹ under which the maximum penalty in terms of fine, imprisonment and disqualification for the offences concerned are each increased by 50%.

18. As the proportion of persons who would drug drive is small and in the absence of a rapid testing device for ketamine (the most commonly drug of abuse in drug driving cases), we do not intend, at least in the initial phase, to conduct random drug testing. When the rapid oral fluid testing device on the commonly abused drugs of Hong Kong is available in the market and has been proven to be reliable in the local circumstances, and that it is found necessary to introduce random drug testing, we would consider the need for introducing random drug testing.

⁹ The proposal on making driving under the influence of or when impaired by the specified illicit drugs a circumstance of aggravation in all dangerous driving offences will be considered in the context of the Road Traffic (Amendment) Bill 2010.

19. We will consider detailed enforcement procedures on performing drug tests and taking blood or other body fluid specimens from the accused, taking into account basic principles set out at **Annex G** to protect the rights of the accused. We will also consider the implementation procedures including those governing the collection and disposal of blood or other body fluid specimens and the use and disposal of records etc. The necessary publicity and education plans to support the launching of the proposed measures will also be considered.

Proposed Consultation and Legislative Plan

20. We plan to consult the Transport Advisory Committee, Road Safety Council, medical associations, pharmacist associations, the transport trades and motorists associations etc. during the summer months to ensure that the proposed measures take into account expert/professional advice, would be effective, and are acceptable to the community. Depending on the views received, we would endeavour to report back to the LegCo Panel the results of the consultation and our legislative proposals on combating drug driving in October/November 2010, with a view to introducing the necessary legislative amendments within the next legislative session.

Advice Sought

21. Members are requested to give their views on the initial proposals set out in the paper.

**Transport and Housing Bureau
July 2010**

Autopsy results of drivers who died in traffic accidents

	2007	2008	2009	2007-2009 Average#
No. of drivers killed	52	46	41	46
Body fluid of drivers examined by Government Laboratory	43	31	24	33
Drivers with positive findings	16	15	12	14
• Drivers with Alcohol only	8	8	4	7
• Drivers with Drug only	6	5	6	6
• Drivers with Alcohol and Drug	2	2	2	2

Types of drugs that were found included:

- Ketamine, morphine, cocaine, methadone
- Gliclazide (antidiabetic), diazepam, midazolam (tranquillizer), zopiclone (hypnotic) ibuprofen (anti-inflammatory) aminophenazone, antipyrine (analgesic)
- Paracetamol

It should be noted that it remains unknown whether there was a link between the ability to drive / happening of the accident and the taking of drugs in these cases.

Figures may not add up due to rounding

Drug Driving¹⁰ Statistics in Hong Kong

	2007	2008	2009	2010*
No. of arrest cases				
• Cases involving inappropriate driving manner	3	1	7	20
• Cases involving damages only	4	1	3	9
• Traffic accidents involving personal injury	1	2	1	8
Total	8	4	11	37
No. of casualties				
• Death	0	0	1	0
• Seriously injured	0	0	0	1
• Slightly injured	1	3	0	7
Total	1	3	1	8

No. of Prosecutions¹¹ on Drug Driving

	2007	2008	2009	2010*
No. of prosecution	8	4	8	17
Cases completed	8	4	8	8
Cases in progress	0	0	0	9

* Period from January to June 2010.

¹⁰ Include all arrest cases where the circumstances suggest the drivers concerned were driving under the influence of drugs

¹¹ These were prosecutions instituted against the drivers under section 39 of Road Traffic Ordinance, Cap. 374. Depending on circumstances of individual cases, drivers of some cases were charged with other offences, e.g. possession of dangerous drugs under Dangerous Drugs Ordinance, Cap. 134. In the 37 drivers arrested in the first six months of 2010, ketamine was the drug suspected to have been taken by 33 drivers. Ice, cough medicine, zopiclone and a prescription drug are the drugs suspected to have been taken by the remaining 4 drivers.

Drug Driving Legislation in Overseas Countries

Country	Legislation	Drugs covered	Prescribed Limit	Preliminary Tests Adopted
Australia (Victoria)	<p>1. It is an offence :</p> <ul style="list-style-type: none"> • to drive with the presence of “prescribed illicit drug(s)” in the body system of a driver; or • to drive while under the influence of / impaired by any “drugs”. <p>2. It is an offence to refuse to undergo a drug impairment test; to provide oral fluid, blood or urine sample for drug analysis, or to stop at Random Drug Test Station.</p>	<p>“Prescribed illicit drugs” are:</p> <ul style="list-style-type: none"> • Delta-9-tetrahydrocannabinol (THC)(the active component of cannabis); • Methylamphetamine; • 3, 4-Methylenedioxy-methamphetamine (MDMA) <p>“Drug” is defined as a substance other than alcohol which, when consumed or used by a person, deprives that person temporarily or permanently of any of his or her normal mental or physical faculties</p>	Zero limit for the “prescribed illicit drugs”	<p>1. Impairment test – carried out in police stations and video recorded</p> <p>2. Rapid oral fluid test, primarily for random drug testing</p>
United Kingdom	<p>1. A person who, when driving or attempting to drive a mechanically propelled vehicle on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.</p> <p>2. It is an offence to refuse to conduct preliminary drug test.</p> <p>3. It is an offence not to provide a sample for drug analysis if the suspect is arrested for driving impairment based on the Field Impairment Testing or experience of the Police Officer.</p>	“Drug” includes any intoxicant other than alcohol	No prescribed limit of any “drugs”	Field impairment tests are either conducted at the roadside or at police station

Country	Legislation	Drugs covered	Prescribed Limit	Preliminary Tests Adopted
Singapore	<ol style="list-style-type: none"> 1. A person who, when driving or attempting to drive a motor vehicle on a road is unfit to drive in that he is under the influence of drink or of a drug or an intoxicating substance to such an extent as to be incapable of having proper control of such vehicle is an offence. 2. If the suspect refuses to provide a blood sample, he/she will be liable to similar punishment as if he/she were convicted for drug driving. 	“Drug” is not defined	No prescribed limit of any “drugs”	<p>Preliminary test is not set out</p> <p>The Police may make an arrest when spotting impaired driving</p>
Belgium	<ol style="list-style-type: none"> 1. It is an offence <ul style="list-style-type: none"> • to drive with presence of specified illicit drugs above the prescribed limits; • to drive while impaired by drugs. 2. Blood sampling is only allowed if signs of impairment are obvious, or roadside urine test is positive for amphetamines, cannabis, cocaine or opiates. 3. If the suspect refuses to provide a specimen for the test, he/she will receive the same sanction as if tested positive. 	<p>Specified drugs for zero-tolerance law</p> <ul style="list-style-type: none"> • THC • Morphine • Amphetamine • MDMA • MDEA • MBDB • Cocaine and its metabolite benzoylecgonine <p>Any drugs will be subject to the driving impairment law</p>	Zero limit for the 7 specified drugs	<ol style="list-style-type: none"> 1. Field impairment test 2. Random oral fluid drug testing

Preliminary impairment test in UK

Preliminary impairment tests are conducted by trained police officer at roadside or at the police station following a code of practice approved by the Government. The tests include the following:

A. The Pupil Measure Test

- Examination of the driver's eye pupil size, condition and reaction to light

B. The Romberg Test

- Assesses the driver's balance and judgment of time. The driver is asked to tilt their head back slightly, close their eyes and estimate the passage of thirty seconds

C. The Walk and Turn Test

- The driver must walk heel to toe along a straight line, counting their steps out loud and looking at their feet while doing so

D. The One Leg Stand Test

- The driver must stand on one leg while counting out loud

E. The Finger to Nose Test

- With the head tilted slightly backwards and eyes closed, the subject must touch the tip of their nose with the tip of their finger with the hand indicated by the officer

**Reported drug abusers for 2009
by age group by type of drugs abused – All ages and aged 21 & over**

Age group / Type of drugs abused	As a proportion of all reported abusers *
<i>All ages</i>	
Heroin	49.8%
Ketamine	37.6%
Triazolam / Midazolam / Zopiclone	10.1%
Methylamphetamine ('ice')	10.0%
Cough medicine	4.8%
Cannabis	4.4%
Cocaine	3.7%
MDMA('ecstasy')	3.7%
Nimetazepam	2.0%
<i>Aged 21 & over</i>	
Heroin	64.9%
Ketamine	22.8%
Triazolam / Midazolam / Zopiclone	12.9%
Methylamphetamine ('ice')	7.9%
Cough Medicine	5.2%
Cannabis	3.5%
Cocaine	2.8%
MDMA(Ecstasy)	1.1%
Nimetazepam	0.8%

Note

Source : Central Registry of Drug Abuse

* Figures refer to proportions of all reported drug abusers of corresponding age group with known drugs abused. The figures add up to over 100% because some abusers use more than one kind of drugs.

Effect of drugs on driving

Driving safely requires mental alertness, clear vision, physical coordination and the ability to react appropriately. The dangers of driving after using **heroin** are due to its sedative effects, slowing down reaction which may be inappropriate, and reduced ability to think clearly. **Ketamine** use is associated with poor body coordination and balancing which could impair the driving performance. One may also experience blurred vision and a sense of detachment from reality. Drivers after ketamine use may have distorted perceptions of speed and distance. Stimulants like **ice** and **ecstasy** can distort a driver's sense of vision; affect his concentration; make him become over-confident and more likely to take dangerous risks. During the phase whilst the stimulating effects are wearing off, the taker may feel fatigued, which will affect their concentration whilst driving. **Cocaine** can lead to misjudging driving speed and stopping distances. It can also lead to aggressive and erratic driving. **Cannabis** can acutely impair cognition, psychomotor function and driving performance. Users of cannabis find it difficult to stay in one lane on the road and may be unaware that they are drifting into the path of oncoming traffic. The sedative effect of **triazolam/midazolam/zopiclone** and **nimetazepam** tends to slow reactions and reduce concentration. All these drugs may adversely affect a person's ability to properly control a vehicle.

2. There are thousands types of drugs and people's reactions to drugs are very different. Besides, the effects of intake may also vary when drugs are mixed. Hence it will not be possible to prescribe in the legislation the limits of each and every drug that may affect driving. Expert advice on whether the taking of a particular drug has an effect on driving behaviour on a case by case basis would be needed for prosecution purpose.

**Enforcement Procedures on proposed drug driving offences
to Protect the Rights of Accused**

- (1) The preliminary impairment test will be conducted at Police station or designated police premises with video-recording facilities by trained police officers according to approved procedures.
- (2) The preliminary drug test by rapid oral fluid testing device will be conducted by trained police officers according to approved procedures. The rapid oral fluid testing device shall be proved to be reliable before it is permitted to be used for enforcement purposes.
- (3) The preliminary impairment test will only be carried out on drivers who do not need immediate medical attention.
- (4) The preliminary test will not be carried out unless with the consent of the accused.
- (5) A police officer will warn a person at the time of requiring preliminary test or blood/other body specimen for analysis that failure to do so may render him liable to prosecution. (If the accused does not give consent, he may be charged with refusal to consent to take the preliminary test or to provide blood and other body fluid specimens.)
- (6) The specimen of blood and other body fluid will not be taken from a person unless he consents to its being taken and it is so taken. In case consent to take blood and other body fluid specimens cannot be obtained because the accused person is unconscious or is under the influence to an extent that he is unable or incapable, the Police is empowered to take blood (likely be part of the normal preliminary medical treatment) from such a person while he is unconscious/incapable. When the person is sober, consent will be sought from him to have the blood tested, which if refused would be an offence.
- (7) Taking of blood and other body fluid for further laboratory testing will be carried out at a Police Station or designated police premises or at hospital by a medical practitioner, registered nurse or enrolled nurse. The Police will obtain medical opinion in reaching a decision, which will be subject to the overriding right of the medical practitioner, registered nurse or enrolled nurse to object if the requirement for blood and other body fluid specimens for laboratory test would be prejudicial to the proper care and treatment of the patient.