

LEGISLATIVE COUNCIL BRIEF

Road Traffic (Amendment) Ordinance 2011

SPECIFYING THE TESTS TO BE INCLUDED

IN AN IMPAIRMENT TEST

INTRODUCTION

The Road Traffic (Amendment) Ordinance 2011 ('the Ordinance') was gazetted on 23 December 2011. The Ordinance aims to impose stricter controls over drug driving and to provide the Police with necessary powers to combat drug driving more effectively. According to new section 39M of the Road Traffic Ordinance as added, a police officer may require a driver to undergo preliminary drug tests if the police officer reasonably suspects that the driver has been driving under the influence of drugs, was driving a vehicle at the time when it was involved in a traffic accident, or has been driving a vehicle and has committed a traffic offence while the vehicle was in motion. The Impairment Test is one of the preliminary drug tests. According to the new section 39T(1) of the Road Traffic Ordinance as added, the Commissioner of Police will publish a notice in the Gazette (at Annex) to specify the tests to be carried out for the purpose of assisting a police officer to form an opinion as to whether or not a person's ability to drive properly is impaired by the consumption or use of drugs. The notice will come into operation on 15 March 2012, the same date the Ordinance will take effect.

JUSTIFICATIONS

2. The Impairment Test provides a scientific and objective basis for police officers to decide whether a driver is required to provide blood and/or urine

for laboratory drug analysis. It has long been and widely adopted in overseas jurisdictions for screening out persons who are grossly impaired by the consumption or use of drugs to the extent of being incapable of properly controlling a vehicle. According to overseas researches, Impairment Test has high positive predictive value¹. The results of the Impairment Test and that of the laboratory analysis will provide an important basis for the Police to ascertain whether a person is driving under the influence of drugs to such an extent as to be incapable of having proper control of the motor vehicle.

3. An Impairment Test comprises a set of systematic and standardized procedures, including Eye Examinations, Modified Romberg Balance Test, Walk and Turn Test, One Leg Stand Test and Finger to Nose Test. Detailed procedures for a police officer to conduct the tests will be set out in Police Orders. The Impairment Test will be carried out in a special room in a police station by police officers who are properly trained and authorized by the Commissioner of Police.

CONSULTATION

4. The Administration has consulted the Legislative Council Panel on Transport on the Impairment Test in the context of the legislative proposals to combat drug driving. When the Road Traffic (Amendment) Bill 2011 was scrutinized in the Committee Stage, the Administration explained the Impairment Test to Members of the Bills Committee by means of a video presentation. The Administration also reported on the positive predictive value of Impairment Test and presented a set of general guidelines for police officers on how reasonable suspicion of drug driving would be established before the driver concerned was to be taken to a police station for conducting an Impairment Test.

PUBLICITY

5. The Administration plans to issue a press release on the implementation date of the new initiatives to combat drug driving on 1 March 2012, and arrange publicity on the new enforcement measures including the

¹ According to Road Safety Research Report No. 63 on Monitoring the Effectiveness of UK Field Impairment Tests published by the Department for Transport: London in March 2006, the proportion of drivers with positive test results that are correctly diagnosed was 94%. According to the enforcement authority of Victoria in Australia, the relevant figure was about 95%.

Impairment Test through various means, including Announcement in Public Interests. A spokesman will be available to answer media enquiries.

ENQUIRIES

6. For enquiries, please contact Mr. WONG Yiu-ming Shylock, Superintendent of Police (Law Revision & Projects) (Traffic), at 2860 6229.

Hong Kong Police Force
January 2012

Road Traffic (Impairment Test) Notice

(Made by the Commissioner of Police under section 39T(1) of the Road Traffic Ordinance (Cap. 374) as amended by the Road Traffic (Amendment) Ordinance 2011 (24 of 2011))

1. Commencement

This Notice comes into operation on 15 March 2012.

2. Tests included in Impairment Test

The tests described in the Schedule are specified as tests to be carried out for the purpose of assisting a police officer to form an opinion as to whether or not a person's ability to drive properly is impaired by the consumption or use of drugs.

Schedule

[s. 2]

Tests Included in Impairment Test

1. Eye Examinations (consisting of pupillary examination and Gaze Nystagmus examination), an indicator of the effects of drugs on a person's nervous system.
2. Modified Romberg Balance Test, an indicator of a person's internal clock and ability to balance.
3. Walk and Turn Test, to test a person's ability to divide attention between walking, balancing and processing instructions.
4. One Leg Stand Test, to test a person's coordination, balance and ability to count out loud according to instructions.
5. Finger to Nose Test, to test a person's depth perception and ability to balance and process instructions.

Commissioner of Police

January 2012

Explanatory Note

Under section 39T(1) of the Road Traffic Ordinance (Cap. 374) as added by section 14 of the Road Traffic (Amendment) Ordinance 2011 (24 of 2011), the Commissioner of Police may, by notice published in the Gazette, specify the tests to be carried out for the purpose of assisting a police officer to form an opinion as to whether or not a person's ability to drive properly is impaired by the consumption or use of drugs. A combination of any or all of the tests specified, carried out by an authorized police officer on a person, is referred to as an Impairment Test.

2. This Notice specifies 5 tests which may be included in an Impairment Test.