

LEGISLATIVE COUNCIL BRIEF

Road Traffic Ordinance (Cap. 374)

Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) (Amendment) Notice 2013

INTRODUCTION

By virtue of section 39F(1) of the Road Traffic Ordinance, Cap. 374, the Commissioner of Police (CP) may by notice in the Gazette approve types of instruments as-

- (a) an approved breath analysing instrument to analyse the proportion of alcohol in a specimen of a person's breath;
- (b) an approved screening device for the purpose of indicating whether the proportion of alcohol in a person's breath is likely to exceed the prescribed limit;
- (c) an approved pre-screening device for indicating whether or not the proportion of alcohol in a person's breath reaches such a level that it would be reasonable to suspect that such proportion is likely to exceed the prescribed limit.

The approved breath analysing instruments, approved screening devices and approved pre-screening devices (“approved apparatuses”) are currently specified in Schedule 1, Schedule 2 and Schedule 3 to the Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) Notice, Cap. 374S respectively. By the Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) (Amendment) Notice 2013 (at Annex), the CP proposes to approve Alcotest 9510, manufactured by Dräger Safety AG & Co. KGaA, Lübeck, Germany, as a new breath analysing instrument. The opportunity is taken to standardize the style in which the manufacturers of the approved apparatuses are described.

BACKGROUND

Breath Analysing Instrument

2. Since the introduction of the drink driving legislation in 1995, the CP had approved Alcotest 7110 manufactured by Dräger (whose full name in German is Dräger Safety AG & Co. KGaA¹), Lubeck, Germany as an approved breath analysing instrument.

Current Situation

3. Pursuant to section 39C of the Road Traffic Ordinance, Cap. 374, specimens of breath are taken from the drivers at a breath test centre, a police station or a hospital for analysis by means of an approved breath analysing instrument.

4. Over the years, Alcotest 7110 remains the only approved breath analysing instrument used by the Hong Kong Police in enforcing drink-driving laws.

5. At present, the Hong Kong Police maintains a total of 32 sets of Alcotest 7110 devices for enforcement and training purposes. 10 sets of these devices were manufactured in 2000s whereas the remaining 22 sets were manufactured between 1996 and 1999. Although these devices are currently operating perfectly well with proper maintenance, they are approaching towards their useful lifespan. To this end, the Hong Kong Police intends to replace these devices in a progressive manner to maintain a continuous and effective enforcement capability against drink driving.

6. To further enhance the Police's capability in enforcement against drink-driving behaviour, the Hong Kong Police also intends to equip more police stations with the approved breath analysing instruments to reduce the traveling time of bringing a suspected driver to a police station equipped with the said instrument for undergoing an evidential breath test.

¹ Dräger Safety AG & Co. KGaA, Lübeck, Germany is a leading international company in the fields of medical and safety technology and is specialized in the manufacturing of instruments for detection of alcohol from a person's breath.

New Breath Analysing Instrument

7. With the advancement in technology, new models of breath analysing devices that are capable of performing analysis of breath specimen in a speedy manner are available. In order to maintain the Police's capability in securing evidence in prosecuting the drink-driving offenders reliably and processing these cases in a more efficient manner, the CP proposes to approve Alcotest 9510, manufactured by Dräger Safety AG & Co. KGaA, Lübeck, Germany, as an approved breath analysing instrument in Hong Kong.

ACCURACY AND RELIABILITY TEST ON THE DEVICE

8. The Department of Chemistry of the Hong Kong University of Science and Technology (HKUST) has been engaged to conduct the accuracy and reliability test on the Alcotest 9510.

9. HKUST's test confirmed that all the Alcotest 9510 samples sent for examination have complied with the metrological requirements stipulated in the Organisation Internationale de Métrologie Légale (OIML) recommendations for Evidential Breath Analysers, as well as the technical specifications mentioned in the operator manual of Alcotest 9510.

10. The Hong Kong Police is satisfied that Alcotest 9510 is an accurate and reliable device suitable to perform evidential breath tests.

OTHER EXISTING APPARATUSES HELD BY THE HONG KONG POLICE

11. Since the introduction of the drink driving legislation (in 1995), the CP has by notice in Gazette approved a few apparatuses manufactured by Dräger (whose full name in German is Dräger Safety AG & Co. KGaA), Lubeck, Germany. These apparatuses are included in Schedules 1, 2 and 3 to Cap.374S.

12. As the full official name of the manufacturer of the approved apparatuses is Dräger Safety AG & Co. KGaA, (which is translated as 德爾格安全有限公司), the Notice standardizes the way of describing the manufacturer of the Alcotest apparatuses listed in the Schedules to Cap.374S. Similarly, “英國雄獅公司” is stated to be a translation of “Lion Laboratories Limited, United Kingdom”.

PROPOSAL

13. The Hong Kong Police proposes to amend Cap. 374S by re-enacting its 3 Schedules for the following purposes:

- (a) adding Alcotest 9510 manufactured by Dräger Safety AG & Co. KGaA, Lübeck, Germany, as an approved breath analysing instrument in Schedule 1; and
- (b) standardizing the style in which the manufacturers of the other approved apparatuses are described.

14. The Notice will come into effect on 19 July 2013.

ENQUIRIES

15. For enquiries, please contact Mr. CHAU Chung-mun, Superintendent of Police (Law Revision & Projects) (Traffic), at 2860 6229.

Hong Kong Police Force
May 2013