

LEGISLATIVE COUNCIL BRIEF

Road Traffic Ordinance (Cap. 374)

Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) (Amendment) Notice 2020

INTRODUCTION

The Commissioner of Police (“CP”) has exercised his power under section 39F(1)(a) of the Road Traffic Ordinance (Cap. 374) (“RTO”) to approve a new breath analysing instrument to analyse the proportion of alcohol in a specimen of a person’s breath. The Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) (Amendment) Notice 2020 (“the Amendment Notice”) is at **Annex**.

JUSTIFICATIONS

Existing Approved Breath Analysing Instruments

2. Since the introduction of the drink driving legislation by means of adding suitable provisions to RTO and its subsidiary legislation in 1995, CP has approved Alcotest 7110 and Alcotest 9510 manufactured by Dräger Safety AG & Co. KGaA, Lübeck, Germany as breath analysing instruments by specifying them in Schedule 1 to the Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) Notice (Cap. 374S).

3. Currently, the Hong Kong Police Force (“the Police”) maintains a total of 50 sets of breath analysing instruments at all police stations in

the Land Regions and three Mobile Breath Test Centres for conducting evidential breath tests for the purpose of drink driving enforcement. Out of the 50 sets, 22 are Alcotest 7110 which have been in use by the Police for over 20 years and are approaching the end of their functional limit. The Police intends to replace these ageing instruments so as to maintain their effective enforcement capability against drink driving.

New Breath Analysing Instrument

4. With technological advancement, new models of breath analysing instruments capable of performing faster analysis of the alcohol proportion in breath specimens have emerged. In order to enhance the capability in securing evidence in the prosecution of drink driving offenders reliably and at the same time maintain the efficiency of drink driving enforcement, the Police has identified a new breath analysing instrument named “SAF’IR Evolution”, which is manufactured by Alcohol Countermeasure Systems Corp., Toronto, Canada.

5. To assess the suitability of “SAF’IR Evolution” as an approved breath analysing instrument, the Police has engaged the Department of Chemistry of the Hong Kong University of Science and Technology to conduct accuracy and reliability tests on the instrument. The instrument has been confirmed to comply with the metrological requirements, i.e. maximum permissible errors and repeatability, stipulated in the International Organisation of Legal Metrology’s Recommendations for Evidential Breath Analysers and its Procurement Specification for Evidential Breath Analysers.

6. On the basis of the test results and noting that the instrument has been deployed in some other jurisdictions such as Argentina, Canada, and Italy for drink driving enforcement, the Police is satisfied that “SAF’IR Evolution” is an accurate and reliable instrument suitable for performing evidential breath tests. Accordingly, CP has approved “SAF’IR Evolution” as a breath analysing instrument for drink driving enforcement.

7. Opportunity is also taken to make minor textual amendments to

the Chinese text of Schedule 1 to the Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) Notice (Cap. 374S) to achieve consistency in presentation.

THE AMENDMENT NOTICE

8. The Amendment Notice made by CP is to amend Schedule 1 to the Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) Notice (Cap. 374S) by -

- (a) adding “SAF’IR Evolution” manufactured by Alcohol Countermeasure Systems Corp., Toronto, Canada as an approved breath analysing instrument; and
- (b) making minor textual amendments to the Chinese text to achieve consistency.

LEGISLATIVE TIMETABLE

9. The legislative timetable for the Amendment Notice is as follows -

Publication in the Gazette	15 May 2020
Tabling at the Legislative Council for negative vetting	20 May 2020
Commencement	10 July 2020

IMPLICATIONS OF THE PROPOSAL

10. The Amendment Notice is in conformity with the Basic Law, including provisions concerning human rights. It will not affect the current binding effect of RTO and its subsidiary legislation.

ENQUIRIES

11. Any enquiries on this brief can be addressed to Mr CHAN Sai-leung, Superintendent of Police (Law Revision and Projects, Traffic), at 2860 6229.

Hong Kong Police Force
13 May 2020

Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) (Amendment) Notice 2020

(Made by the Commissioner of Police under section 39F(1)(a) of the Road Traffic Ordinance (Cap. 374))

1. Commencement

This Notice comes into operation on 10 July 2020.

2. Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) Notice amended

The Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) Notice (Cap. 374 sub. leg. S) is amended as set out in section 3.

3. Schedule 1 amended (approved breath analysing instruments)

(1) Schedule 1, Chinese text, item 1—

Repeal

everything before “德爾格”

Substitute

“1. 由德國呂貝克市 Dräger Safety AG & Co. KGaA (可譯為”。

(2) Schedule 1, Chinese text, item 2—

Repeal

everything before “德爾格”

Substitute

“2. 由德國呂貝克市 Dräger Safety AG & Co. KGaA (可譯為”。

(3) Schedule 1, after item 2—

Add

“3. SAF'IR Evolution manufactured by Alcohol Countermeasure Systems Corp., Toronto, Canada.”.

Commissioner of Police

2020

May 8

Explanatory Note

This Notice amends Schedule 1 to the Road Traffic (Breath Analysing Instruments, Screening Devices and Pre-screening Devices) Notice (Cap. 374 sub. leg. S) by adding SAF'IR Evolution as an approved breath analysing instrument to analyse the proportion of alcohol in a specimen of a person's breath.

2. The Notice also makes minor textual amendments to the Chinese text of that Schedule to achieve consistency.