

Chapter:	374	<b>Road Traffic Ordinance</b>	Gazette Number	Version Date
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		<b>Long title</b>	E.R. 2 of 2012	02/08/2012
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To provide for the regulation of road traffic and the use of vehicles and roads (including private roads) and for other purposes connected therewith.

(Amended 80 of 1988 s. 2)

[25 August 1984] *L.N. 294 of 1984*

(Originally 75 of 1982)

(\*Format changes—E.R. 2 of 2012)

**Note:**

\* The format of the Ordinance has been updated to the current legislative styles.

Part:	1	<b>Preliminary</b>	E.R. 2 of 2012	02/08/2012
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Section:	1	<b>Short title</b>	E.R. 2 of 2012	02/08/2012
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This Ordinance may be cited as the Road Traffic Ordinance.

Section:	2	<b>Interpretation</b>	E.R. 2 of 2012	02/08/2012
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In this Ordinance, unless the context otherwise requires-

**approved breath analysing instrument** (認可呼氣分析儀器) means an instrument of a type approved by the Commissioner of Police under section 39F for analysing the proportion of alcohol in a specimen of a person's breath; (Added 39 of 1995 s. 2)

**approved operator** (認可操作員) means a member of the police force authorized by the Commissioner of Police under section 39F; (Added 39 of 1995 s. 2)

**approved pre-screening device** (認可預檢設備) means a device-

- (a) of a type approved by the Commissioner of Police under section 39F; and
- (b) 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; (Added 23 of 2008 s. 3)

**approved screening device** (認可檢查設備) means a device of a type approved by the Commissioner of Police under section 39F for indicating whether the proportion of alcohol in a person's breath is likely to exceed the prescribed limit; (Added 39 of 1995 s. 2)

**authorized police officer** (獲授權警務人員), in relation to a preliminary drug test, means a police officer authorized under section 39T(3) to carry out that test; (Added 24 of 2011 s. 3)

**automatic vending machine** (自動銷售機) means a machine erected pursuant to section 12(1)(l); (Added 61 of 1991 s. 2)

**bicycle** (單車) means a vehicle with 2 wheels designed and constructed to be propelled by the use of pedals;

**breath analysis** (呼氣分析) means an analysis of a specimen of a person's breath under section 39C; (Added 39 of 1995 s. 2)

**breath test centre** (呼氣測試中心) means a place or vehicle designated by the Commissioner of Police as a breath test centre under section 39C(20); (Added 50 of 1999 s. 2)

**bus** (巴士) means a motor vehicle constructed or adapted for the carriage of more than 16 passengers and their personal effects; (Amended 89 of 1988 s. 2)

**Commissioner** (署長) means the Commissioner for Transport;

**conductor** (指導員) in relation to a bus includes any person, other than the driver, who is employed-

- (a) to be in charge of, or to guide, passengers on the bus; or
  - (b) as an inspector of any service provided by the bus;
- disabled person** (傷殘人士) means a person who is the holder of a certificate signed by or on behalf of the Director of Health or the Hospital Authority within the meaning of the Hospital Authority Ordinance (Cap 113) stating that such person is suffering from a permanent disease or physical disability that causes him considerable difficulty in walking; (Added 34 of 1993 s. 2)
- display ticket** (泊車票) means a ticket obtained from a pay and display machine for display on a motor vehicle to indicate payment for the use of the parking space in which the vehicle is parked and which shows-
- (a) the payment made for obtaining it;
  - (b) the date on which payment is made and the time of expiry of the period to which the payment relates; and
  - (c) the parking place in respect of which the machine is erected; (Added 61 of 1991 s. 2)
- disqualified** (取消駕駛資格) means disqualified under this Ordinance from holding or obtaining a driving licence and **disqualification** (駕駛資格取消) shall be construed accordingly;
- domestic driving permit** (當地駕駛許可證) and **domestic driving licence** (當地駕駛執照) in relation to a place outside Hong Kong mean a document issued under the law of that place authorizing the driver to drive motor vehicles or a specified class or description of motor vehicles in that place;
- driver** (司機、駕駛人), in relation to any vehicle (other than a rickshaw), vehicle of the North-west Railway, or tram, means any person who is in charge of or assisting in the control of it and, in relation to a rickshaw, means any person pulling a rickshaw; (Amended 46 of 1987 s. 2)
- driver operated village vehicle** (司機操作的鄉村車輛) means a motor vehicle having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m constructed or adapted primarily for the carriage of goods on roads in rural areas or areas inaccessible or closed to other motor vehicles, in addition to the carriage of a driver only; (Added 31 of 1986 s. 2)
- driving improvement course** (駕駛改進課程) means a driving improvement course provided by a driving improvement school under section 102B(3)(a); (Added 3 of 2002 s. 2)
- driving improvement school** (駕駛改進學校) means a place designated by the Commissioner as a driving improvement school under section 102B(1) and in respect of which the designation is for the time being in force; (Added 3 of 2002 s. 2)
- driving licence** (駕駛執照) means a driving licence issued under this Ordinance;
- drug** (藥物) means—
- (a) a substance specified in Schedule 1A; or
  - (b) any substance (other than alcohol or a substance referred to in paragraph (a)) which, when consumed or used by a person, deprives a person (temporarily or permanently) of any of his or her normal mental or physical faculties; (Added 24 of 2011 s. 3)
- Drug Influence Recognition Observation** (識認藥物影響觀測) means a test carried out by an authorized police officer on a person, to detect signs that indicate the effect on the human body of the consumption or use of drugs, so as to assist the police officer to form an opinion as to whether or not the person is under the influence of a drug; (Added 24 of 2011 s. 3)
- educational institution** (教育機構) means-
- (a) any institution, organization or place which provides, or where there is provided, for 10 or more persons during any one day, whether or not at the same time, kindergarten, primary, secondary or post secondary education or any other educational course which is either-
    - (i) registered as a school under the Education Ordinance (Cap 279); or
    - (ii) exempted from registration as a school under the Education Ordinance (Cap 279);
  - (b) any post secondary college registered under the Post Secondary Colleges Ordinance (Cap 320);
  - (c) the University of Hong Kong referred to in the University of Hong Kong Ordinance (Cap 1053);
  - (d) The Chinese University of Hong Kong established under The Chinese University of Hong Kong Ordinance (Cap 1109);
  - (e) The Hong Kong Polytechnic University established under the Hong Kong Polytechnic University Ordinance (Cap 1075); (Amended 94 of 1994 s. 25)
  - (f) the Hong Kong Baptist University established by the Hong Kong Baptist University Ordinance (Cap 1126); (Added 50 of 1983 s. 34. Amended 93 of 1994 s. 41)

- (g) the City University of Hong Kong established by the City University of Hong Kong Ordinance (Cap 1132); (Added 65 of 1983 s. 25. Amended 92 of 1994 s. 34)
  - (h) The Hong Kong Academy for Performing Arts established by The Hong Kong Academy for Performing Arts Ordinance (Cap 1135); (Added 38 of 1984 s. 28)
  - (i) The Hong Kong University of Science and Technology established by The Hong Kong University of Science and Technology Ordinance (Cap 1141); (Added 47 of 1987 s. 25)
  - (j) The Open University of Hong Kong established by The Open University of Hong Kong Ordinance (Cap 1145); (Replaced 50 of 1997 s. 29)
  - (k) Lingnan University established by the Lingnan University Ordinance (Cap 1165); (Replaced 54 of 1999 s. 32)
  - (l) The Hong Kong Institute of Education established by The Hong Kong Institute of Education Ordinance (Cap 444); (Added 16 of 1994 s. 27)
- fail** (沒有), for the purposes of sections 39B, 39C, 39O and 39S, includes refuse; (Added 39 of 1995 s. 2. Amended 24 of 2011 s. 3)
- franchised bus** (專利巴士) has the meaning given to it by regulation 2(1) of the Road Traffic (Traffic Control) Regulations (Cap 374 sub. leg. G); (Added 6 of 2012 s. 3)
- golf cart** (高爾夫球車) means a motor vehicle having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m constructed or intended for use for the carriage of passengers on golf courses, in addition to the carriage of a driver; (Added 80 of 1988 s. 3)
- goods** (貨、貨物) includes burden of any description;
- goods vehicle** (貨車) means a motor vehicle, or trailer, which is constructed or adapted for use primarily for the carriage of goods, but does not include-
- (a) a motor tricycle or a motor cycle with or without a sidecar attached thereto; or
  - (b) a village vehicle; (Replaced 31 of 1986 s. 2)
- gross vehicle weight** (車輛總重), in relation to a vehicle, means the sum of the weights transmitted to the road surface by all the wheels of the vehicle and includes, in the case of a trailer, any weight of the trailer imposed on the drawing vehicle, and the **permitted gross vehicle weight** (許可車輛總重) of a vehicle means the maximum gross vehicle weight assigned or determined in respect of the vehicle in accordance with regulations made under this Ordinance; (Amended 66 of 1985 s. 2)
- heavy goods vehicle** (重型貨車) means a goods vehicle having a permitted gross vehicle weight exceeding 24 tonnes but not exceeding 38 tonnes;
- hire car permit** (出租汽車許可證) means a permit issued in accordance with this Ordinance authorizing the use of a private car for the carriage of passengers for hire or reward;
- hospital** (醫院) means an institution which provides medical or surgical treatment for in-patients or out-patients; (Added 39 of 1995 s. 2)
- Impairment Test** (損害測試) means a combination of any or all of the tests specified by the Commissioner of Police under section 39T(1), carried out by an authorized police officer on a person, so as to assist the police officer to form an opinion as to whether or not the person's ability to drive properly is impaired by the consumption or use of drugs; (Added 24 of 2011 s. 3)
- international driving permit** (國際駕駛許可證) means an international driving permit issued under the authority of a country or place other than Hong Kong which is a party to an international agreement for the time being in force in respect of Hong Kong; (Amended 3 of 2002 s. 15)
- invalid carriage** (傷殘者車輛) means a motor vehicle especially designed and constructed for the sole use of a person suffering from physical defects or disabilities;
- kindergarten education** (幼稚園教育) has the meaning assigned to it by section 3 of the Education Ordinance (Cap 279);
- learner's driving licence** (學習駕駛執照) means a learner's driving licence issued under regulation 12 or 12A of the Road Traffic (Driving Licences) Regulations (Cap 374 sub. leg. B); (Added 23 of 2008 s. 3)
- light bus** (小型巴士) means a motor vehicle constructed or adapted for use solely for the carriage of a driver and not more than 16 passengers and their personal effects, but does not include an invalid carriage, motor cycle, motor tricycle, private car or taxi; (Amended 89 of 1988 s. 2; 19 of 2004 s. 2)

**light goods vehicle** (輕型貨車) means a goods vehicle having a permitted gross vehicle weight not exceeding 5.5 tonnes;

**medium goods vehicle** (中型貨車) means a goods vehicle having a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes;

**motor cycle** (電單車) means a two-wheeled motor vehicle with or without a sidecar;

**motor tricycle** (機動三輪車) means a three-wheeled motor vehicle other than-

- (a) a motor cycle with a sidecar; and
- (b) a village vehicle; (Replaced 31 of 1986 s. 2)

**motor vehicle** (汽車) means any mechanically propelled vehicle;

**multi-cycle** (多輪車) means a vehicle with-

- (a) 4 or more wheels designed and constructed to be propelled by the use of pedals and of which wheels at least 4 touch the road simultaneously when the vehicle is ridden; and
- (b) a seat (or seats) whose height is not less than 350 mm above the road at any time when the vehicle is ridden; (Added 89 of 1994 s. 2)

**noise emission standards** (噪音發出標準), in relation to the prohibition or control of the emission of noise in respect of motor vehicles intended to be registered under this Ordinance, means the noise emission standards prescribed in or by virtue of regulations made under section 27 of the Noise Control Ordinance (Cap 400); (Added 13 of 1996 s. 2)

**North-west Railway** (西北鐵路) means the North-west Railway within the meaning of the Kowloon-Canton Railway Corporation Ordinance (Cap 372); (Added 56 of 1986 s. 26)

**operator** (營辦商) means, in relation to a parking meter, any person who has entered into a management agreement with the Government to undertake such functions relating to parking meters as are specified by the Commissioner and on such terms and conditions as are imposed by the Commissioner; (Added 91 of 1993 s. 2)

**overall length** (全長度) and **overall width** (全寬度) in relation to a vehicle, shall have the meanings assigned to them respectively by regulations made under section 9; (Added 31 of 1986 s. 2)

**owner** (擁有人、車主), in relation to-

- (a) a private road, means the person who under common law has the right to restrict access by the public to that road; and
- (b) a vehicle, includes the person in whose name the vehicle is registered or a village vehicle permit is issued, and the person by whom a vehicle is kept and used and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under the agreement; (Replaced 80 of 1988 s. 3)

**parking card** (泊車儲值卡) means a card, permit, pass or other similar device issued by the Commissioner or on his behalf or caused to be issued by him and-

- (a) the value of which at any particular time is encoded on it to permit its use in conjunction with-
  - (i) a parking meter for payment of a parking fee;
  - (ii) a pay and display machine, to obtain a display ticket; and
- (b) which when used for payment of a parking fee causes to be indicated on the parking meter the period in respect of which it is so used and whether that period has elapsed; (Added 61 of 1991 s. 2)

**parking fee** (泊車費), in relation to a particular parking space, means a fee payable under section 12(4) for the time being for the use of that space for parking; (Added 61 of 1991 s. 2)

**parking meter** (停車收費錶) means an apparatus constructed and designed to receive and indicate or to indicate payment for the use of a space in a parking place; (Added 61 of 1991 s. 2)

**parking place** (泊車處) means a place designated by the Commissioner under this Ordinance as a parking place;

**parking space** (泊車位) means a space in a parking place indicated by lines or other marks for the accommodation of one vehicle; (Added 61 of 1991 s. 2)

**passenger** (乘客) in relation to a vehicle means any person carried in or on it other than any driver or conductor of it;

**passenger service licence** (客運營業證) means a licence to operate a passenger service issued under this Ordinance;

**pay and display machine** (憑票泊車機) means any machine or other apparatus designed and constructed to issue a display ticket; (Added 61 of 1991 s. 2)

**pedestrian controlled village vehicle** (由徒步者控制的鄉村車輛) means a motor vehicle controlled by a pedestrian, having an overall length not exceeding 3.2 m and an overall width not exceeding 1.2 m, constructed or adapted primarily for the carriage of goods on roads in rural areas or areas inaccessible or closed to other motor vehicles, and not constructed or adapted for the carriage of a driver or any passenger; (Added 31 of 1986 s. 2)

**personal effects** (個人財物) means goods which are the property of the driver of a motor vehicle or any passenger carried therein;

**personalized registration mark** (自訂登記號碼) means a personalized registration mark assigned or allocated under regulations made under section 6; (Added 25 of 2005 s. 2)

**post secondary education** (專上教育) has the meaning assigned to it by section 3 of the Education Ordinance (Cap 279);

**preliminary drug test** (初步藥物測試) means a Drug Influence Recognition Observation, an Impairment Test or a Rapid Oral Fluid Test; (Added 24 of 2011 s. 3)

**prescribed limit** (訂明限度) means-

- (a) 22 micrograms of alcohol in 100 millilitres of breath;
  - (b) 50 milligrams of alcohol in 100 millilitres of blood; or
  - (c) 67 milligrams of alcohol in 100 millilitres of urine,
- or such other proportion as the Secretary may notify in the Gazette under section 39G; (Added 39 of 1995 s. 2. Amended 50 of 1999 s. 2; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)

**pre-service course** (職前課程) means a course provided under section 102I(2)(a); (Added 6 of 2012 s. 3)

**pre-service training school** (職前訓練學校) means a place designated as a pre-service training school under section 102I(1) and in respect of which the designation is for the time being in force; (Added 6 of 2012 s. 3)

**primary education** (小學教育) has the meaning assigned to it by section 3 of the Education Ordinance (Cap 279);

**private bus** (私家巴士) means a bus used or intended for use-

- (a) otherwise than for hire or reward; or
- (b) for the carriage of passengers who are exclusively-
  - (i) the students, teachers and employees of an educational institution; or
  - (ii) disabled persons and persons assisting them,whether or not for hire or reward;

**private car** (私家車) means a motor vehicle constructed or adapted for use solely for the carriage of a driver and not more than 7 passengers and their personal effects but does not include an invalid carriage, motor cycle, motor tricycle or taxi;

**private light bus** (私家小巴) means-

- (a) a school private light bus; or
- (b) a light bus (other than a school private light bus) used or intended for use-
  - (i) otherwise than for hire or reward; or
  - (ii) exclusively for the carriage of persons who are disabled persons and persons assisting them, whether or not for hire or reward; (Replaced 50 of 1999 s. 6)

**private road** (私家路) means every thoroughfare, street, lane, alley, court, square, car park, passage, path, way and place to which access by the public may be restricted under common law, irrespective of whether such access is so restricted, but does not include-

- (a) (Repealed 23 of 2002 s. 91)
- (b) any part of the carriageway of the North-west Railway designated by the Commissioner for the purposes of the definition of **road** (道路) in this section by notice in the Gazette; (Added 80 of 1988 s. 3)

**probationary driving licence** (暫准駕駛執照) means a probationary driving licence to drive a motor cycle, motor tricycle, private car or light goods vehicle issued under regulation 12G of the Road Traffic (Driving Licences) Regulations (Cap 374 sub. leg. B); (Added 23 of 2008 s. 3)

**public bus** (公共巴士) means a bus, other than any private bus, which is used or intended for use for hire or reward;

**public light bus** (公共小巴) means a light bus, other than any private light bus, which is used or intended for use for hire or reward;

**public service vehicle** (公共服務車輛) means any motor vehicle registered as a public bus, public light bus or taxi,

or as a private car in respect of which a hire car permit is in force;

**Rapid Oral Fluid Test** (快速口腔液測試) means a test carried out—

- (a) on a person's oral fluid;
- (b) by an authorized police officer;
- (c) using any instrument approved under section 39T(2); and
- (d) to detect the presence of any specified illicit drug in the person's oral fluid; (Added 24 of 2011 s. 3)

**recovery vehicle** (救援車輛) means a motor vehicle which is constructed or adapted for the purpose of removing from a road (by means of towing, carrying or otherwise) a vehicle which is not roadworthy, has been involved in an accident or has otherwise broken down on that road; (Added 71 of 1991 s. 2)

**register** (登記), when used as a verb, includes **re-register**;

**register** (登記冊), when used as a noun, means the register of vehicles maintained under this Ordinance;

**registered** (已登記、登記) means registered under this Ordinance;

**registered owner** (登記車主) means the person registered as owner of a vehicle under this Ordinance;

**registration document** (登記文件) means the book or document which relates to the registration of a motor vehicle in the register and which is required to be issued to the registered owner under this Ordinance;

**registration mark** (登記號碼) means—

- (a) a special registration mark;
- (b) a personalized registration mark; or
- (c) any other registration mark assigned or allocated, or deemed to be assigned or allocated, under regulations made under section 6; (Replaced 25 of 2005 s. 2)

**repealed Ordinance** (已廢除條例) means the repealed Road Traffic Ordinance (Cap 220, 1979 Ed.);

**road** (路、道路) includes every highway, thoroughfare, street, lane, alley, court, square, car park, passage, path, way and place to which the public have access either continuously or intermittently, whether or not the same is the property of the Government, and includes the carriageway of the North-west Railway, but does not include any private road, or any part of the carriageway of the North-west Railway designated by the Commissioner for the purposes of this definition by notice in the Gazette; (Amended 56 of 1986 s. 26; 46 of 1987 s. 2; 80 of 1988 s. 3; 29 of 1998 s. 105; L.N. 326 of 2000; 23 of 2002 s. 91)

**road hump** (路丘) means a hump placed transversely across the carriageway of a road for the purpose of regulating the speed of vehicles being driven on that road; (Added 80 of 1988 s. 3)

**road marking** (道路標記) means a line, word, mark or device placed on, or set into, the surface of a road for conveying to persons using the road any warning, information, requirement, restriction, prohibition or direction and includes a road hump, but does not include a road marking within the meaning of section 121; (Amended 80 of 1988 s. 3)

**roadworthy** (宜於道路上使用) in relation to any motor vehicle means that the vehicle is suitable and safe for use for any of the purposes for which it may lawfully be used, having regard to the class or any division of the class of motor vehicle within which—

- (a) application has been made to register the vehicle; or
- (b) the vehicle is registered, or is required to be registered, as the case may be;

**school crossing patrol** (學校交通安全隊員) means any person authorized to act as a school crossing patrol pursuant to regulations made under section 11;

**school private light bus** (學校私家小巴) means a light bus used or intended for use primarily for the carriage of persons who are the students of an educational institution, persons accompanying or in charge of such students, teachers or employees of the institution, to or from the institution, whether or not for hire or reward; (Added 50 of 1999 s. 6)

**screening breath test** (檢查呼氣測試) means a preliminary test under section 39B, but does not include a test of a specimen of breath by an approved pre-screening device; (Added 39 of 1995 s. 2. Amended 23 of 2008 s. 3)

**secondary education** (中學教育) has the meaning assigned to it by section 3 of the Education Ordinance (Cap 279);

**Secretary** (局長) means the Secretary for Transport and Housing; (Added 6 of 2012 s. 3)

**semi-trailer** (半拖車) means any trailer designed, constructed or adapted to be coupled to a motor vehicle in such a

way that part of it rests on the motor vehicle and that a substantial part of its weight and of the weight of its load is borne by the motor vehicle;

**special purpose vehicle** (特別用途車輛) means a motor vehicle designed, constructed or adapted primarily for a use other than the carriage on a road of goods, the driver or passengers;

**special reasons** (特別理由) means special reasons relating to the offence, and in exceptional circumstances special reasons relating to-

- (a) the offender; and
- (b) such other circumstance that the court or magistrate may consider to be relevant; (Amended 23 of 2008 s. 3)

**special registration mark** (特殊登記號碼) means a special registration mark assigned or allocated, or deemed to be assigned or allocated, under regulations made under section 6; (Added 25 of 2005 s. 2)

**specially authorized vehicle examiner** (特許驗車主任) means a person authorized under section 88(1)(b) to issue suspension of vehicle licence orders;

**specified illicit drug** (指明毒品) means a substance specified in Schedule 1A; (Added 24 of 2011 s. 3)

**standing or plying for hire** (停車候客) means, in respect of any vehicle, being on any road, whether in motion or stationary, and exhibiting any sign or signal, or having a person who is exhibiting any sign or signal or who in any other way indicates, that the vehicle or any portion of it is available for hire whether on a predetermined route or otherwise;

**student** (學生) means any person who is attending an educational institution for the purpose of pursuing a course of education;

**taxi** (的士) means a motor vehicle which is registered as a taxi under this Ordinance;

**taximeter** (的士計程錶) means any appliance for measuring the time or distance for which a taxi is used, or for measuring both time and distance, or for recording the fare by time or distance or by a combination of time and distance, which is for the time being approved for the purpose by the Commissioner;

**teacher** (教員) means any person employed at an educational institution for the purpose of instructing students;

**temporary driving licence** (臨時駕駛執照) means a temporary driving licence issued under regulation 13 of the Road Traffic (Driving Licences) Regulations (Cap 374 sub. leg. B); (Added 23 of 2008 s. 3)

**tier 1** (第1級), **tier 2** (第2級) and **tier 3** (第3級) have the meaning given by section 39A(1A); (Added 19 of 2010 s. 2)

**traffic sign** (交通標誌) means a sign, object or device for conveying to persons using a road any warning, information, direction, requirement, restriction or prohibition, but does not include a sign within the meaning of section 121; (Amended 80 of 1988 s. 3)

**traffic warden** (交通督導員) means a person appointed as traffic warden or a senior traffic warden under section 58;

**trailer** (拖車) means a vehicle which is not mechanically propelled and is towed or intended for towing by a motor vehicle, including any semi-trailer or draw bar trailer;

**tram** (電車) includes all electrically powered vehicles and trailers constructed for use on a tramway;

**Transport Tribunal** (交通審裁處) means a Transport Tribunal appointed under section 17;

**tricycle** (三輪車) means a vehicle with 3 wheels propelled by the use of pedals;

**vehicle** (車輛) means any vehicle whether or not mechanically propelled which is constructed or adapted for use on roads but does not include a vehicle of the North-west Railway or a tram; (Amended 46 of 1987 s. 2)

**vehicle design standards** (車輛設計標準) has the same meaning as in section 2 of the Air Pollution Control Ordinance (Cap 311); (Added 3 of 1991 s. 2)

**vehicle emission standards** (車輛廢氣排放標準) means the vehicle emission standards set out in a code of practice issued or revised under Part 8A; (Added 3 of 1991 s. 2)

**vehicle examination centre** (驗車中心) means a place designated as a vehicle examination centre under section 88(2);

**vehicle examiner** (驗車主任) means a person appointed as a vehicle examiner under section 88(1)(a);

**vehicle identification number** (車輛識別號碼) means a chassis number or any mark assigned to a vehicle by the manufacturer or a mark assigned by the Commissioner primarily for registration and identification purposes; it

may consist of numerals or letters, or a combination thereof; (Added 89 of 1994 s. 2)

**vehicle licence** (車輛牌照) means a licence issued in respect of a vehicle in accordance with regulations made under section 6;

**vehicle of the North-west Railway** (西北鐵路車輛) means a light rail vehicle including a vehicle used for maintenance purposes operated along and by means of the rails of the North-west Railway; (Added 46 of 1987 s. 2)

**village vehicle** (鄉村車輛) means-

- (a) a driver operated village vehicle;
- (b) a pedestrian controlled village vehicle; or
- (c) a golf cart; (Replaced 80 of 1988 s. 3)

**village vehicle permit** (鄉村車輛許可證) means a permit issued in respect of a village vehicle in accordance with regulations made under section 12A. (Added 31 of 1986 s. 2)

(Amended E.R. 2 of 2012)

Section:	3	<b>Application to State</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to section 4A, Parts 5, 7, 8, 12, 13 (except section 121) and 14 (except section 131) shall apply to vehicles and persons in the public service of the State and for the purpose of proceedings for an offence in connection with any such vehicle against any person other than the driver of the vehicle the person nominated in that behalf by the department in whose service the vehicle is used shall be deemed to be the person actually responsible unless it is shown to the satisfaction of the court or magistrate that only the driver was responsible. [cf. 1930 c. 43 s. 121(2) U.K.]
- (2) Any regulations made in exercise of the powers conferred by sections 6, 8, 9, 10, 11, 12, 12A, 121 and 131 may be expressed to apply to vehicles and persons in the public service of the State in the same manner as Parts 5, 7, 8, 12, 13 and 14 are applied by subsection (1) subject to such modifications and exceptions as may be specified in the regulations.

(Amended 31 of 1986 s. 3; 80 of 1988 s. 4; 71 of 1991 s. 3; 3 of 2002 s. 15; E.R. 2 of 2012)

Section:	4	<b>Application of Ordinance to trams</b>	E.R. 2 of 2012	02/08/2012
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- (1) Sections 36, 36A, 37, 38, 39, 39A, 39B, 39C, 39D, 39E, 39J, 39K, 39L, 39M, 39N, 39O, 39P, 39Q, 39R, 39S, 39U, 40, 41, 56, 57, 60, 61, 63 and 64 shall apply to trams and to vehicles of the North-west Railway and sections 56, 57, 63 and 64 shall apply to vehicles of the North-west Railway on any part of the carriageway of the North-west Railway that is not a road in the same way as those sections apply in relation to vehicles on roads. (Amended 56 of 1986 s. 26; 46 of 1987 s. 3; 39 of 1995 s. 3; 19 of 2010 s. 3; 24 of 2011 s. 4)
- (2) Any regulations made in exercise of the powers conferred by sections 7 and 11 may be expressed to apply to trams or to vehicles of the North-west Railway and may also be expressed to apply in relation to any part of the carriageway of the North-west Railway specified in the regulations, subject to such modifications and exceptions as may be specified in the regulations.

(Amended 56 of 1986 s. 26; 46 of 1987 s. 3)

Section:	4A	<b>Application of Ordinance to village vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) Except to the extent specified in subsections (2), (2A) and (3) or where it is otherwise expressly provided, this Ordinance shall not apply to village vehicles. (Amended 80 of 1988 s. 5)
- (2) Parts 1, 7, and 11 and sections 12A (together with any regulations made under that section), 36 (other than subsections (2), (2A), (2AB), (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)), 39D, 39E, 39J (other than subsections (2), (3), (4), (5) and (6)), 39K (other than subsections (2), (3), (4) and (5)), 39L (other than subsections (2), (3), (4) and (5)), 39M, 39N, 39O (other than subsections (4), (5), (6) and (7)), 39P, 39Q, 39R, 39S (other than subsections (3), (4), (5) and



(6), 39U, 49, 53, 60, 61, 62, 63 (other than provisions relating to driving licences and disqualification except as provided by subsection (2A)), 64, 65, 67, 68, 73, 76, 111 and 112, and Schedules 2 and 5 shall apply to and in relation to village vehicles. (Amended 80 of 1988 s. 5; 39 of 1995 s. 4; 19 of 2010 s. 4; 24 of 2011 s. 5)

(2A) The provisions of this Ordinance relating to driving licences and disqualification shall apply to and in relation to-

(a) driving licences specified in regulations made under section 12A(1)(da)(ii); and

(b) persons holding such specified driving licences,

as if a golf cart were a vehicle of the class of vehicle which may be driven on a road by a person by virtue of being the holder of such a specified driving licence. (Added 80 of 1988 s. 5)

(3) Any regulations made in exercise of the powers conferred by section 9, 10, 11 or 12 may be expressed to apply to village vehicles subject to such modifications and exceptions as may be specified in the regulations.

(4) In the application of any provision of this Ordinance to or in relation to a village vehicle a reference in the provision-

(a) to a registered owner or a person in whose name the vehicle is registered shall be construed as a reference to the holder of a village vehicle permit in respect of the vehicle;

(b) to the address of a registered owner shall be construed as a reference to the last known address of the village vehicle permit holder.

(Added 31 of 1986 s. 4. Amended E.R. 2 of 2012)

Section:	4B	<b>(Repealed 46 of 1987 s. 4)</b>		30/06/1997
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Part:	2	<b>Regulations</b>	E.R. 2 of 2012	02/08/2012
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Section:	5	<b>International agreements</b>	E.R. 2 of 2012	02/08/2012
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(1) For the purpose of enabling effect to be given to any international agreement for the time being in force in respect of Hong Kong, the Secretary may make regulations for the following purposes- (Amended L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)

(a) the issue and authentication of permits, certificates or other documents relating to vehicles or the drivers of vehicles which may be required for the purposes of travel outside Hong Kong by persons resident in Hong Kong; and

(b) the use of vehicles brought temporarily into Hong Kong by persons resident outside Hong Kong and the use of such vehicles by persons so resident who are temporarily in Hong Kong.

(2) Any regulation made under this section may provide for-

(a) any matter appearing to the Secretary to be incidental to or connected with the matters regulated by any such international agreement; and (Amended L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)

(b) the extension of any privilege conferred by the regulations to persons resident outside Hong Kong who are temporarily in Hong Kong but are not entitled thereto by virtue of any such international agreement, or in respect of vehicles brought temporarily into Hong Kong by such persons, being persons or vehicles satisfying such conditions as may be specified in the regulations.

(c) (Repealed 89 of 1994 s. 3)

(3) For the purpose of enabling effect to be given to any international agreement for the time being in force in respect of Hong Kong, the Chief Executive in Council may make regulations for the payment in respect of such documents as are mentioned in subsection (1)(a) of such fees as appear to the Chief Executive in Council to be appropriate having regard to any service performed in connection therewith under the regulations. (Added 89 of 1994 s. 3. Amended 3 of 2002 s. 15)

(Amended 89 of 1994 s. 3)

[cf. 1952 c. 39 s. 1 U.K.]

Section:	6	<b>Regulation of registration and licensing of vehicles</b>	E.R. 2 of 2012	02/08/2012
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(1) The Secretary may make regulations to provide for- (Amended 89 of 1994 s. 4; L.N. 106 of 2002; L.N. 130 of

2007; 6 of 2012 s. 2)

- (a) the registration of vehicles within any class specified in Schedule 1 and the transfer and cancellation of registration;
- (aa) empowering the Commissioner to assign, on registering or licensing any vehicle, a permitted gross vehicle weight in respect of that vehicle; (Added 66 of 1985 s. 3)
- (ab) validating the assignment of a permitted gross vehicle weight assigned to a vehicle on or after 25 August 1984 and prior to the commencement of any regulations made under paragraph (aa); (Added 66 of 1985 s. 3)
- (b) the licensing of vehicles for use on roads and the issue, renewal, transfer and variation of licences and the circumstances in which a vehicle may be exempt from licensing;
- (c) empowering the Commissioner to license taxis by calling for tenders on payment of a premium, and for the payment of deposits and the forfeiture of deposits in specified circumstances;
- (d) the issue, use and surrender of fiscal permits, registration and licensing documents, international certificates, international circulation permits and other documents, and registration marks, for Hong Kong vehicles going to places outside Hong Kong and for vehicles from places outside Hong Kong coming to Hong Kong; (Amended 23 of 1998 s. 2)
- (e) the maintenance of a register of motor vehicles and the issue of extracts therefrom;
- (f) the assignment, allocation, cancellation or withdrawal at the discretion of the Commissioner, or the allocation and sale by auction, tender, or at a special fee, of special registration marks; (Amended 39 of 1995 s. 5)
- (g) controlling, restricting or prohibiting the transfer of registration marks; (Amended 25 of 2005 s. 3)
- (h) specifying the numbers and letters and numbers which shall be special registration marks for the purposes of this Ordinance;
- (ha) the making of applications for personalized registration marks; (Added 25 of 2005 s. 3)
- (hb) the consideration and determination by the Commissioner of applications for personalized registration marks; (Added 25 of 2005 s. 3)
- (hc) the review by the Commissioner of any determination made by him to accept an application for a personalized registration mark; (Added 25 of 2005 s. 3)
- (hd) the letters and numerals, and the number and the combination of letters and numerals that may be used in personalized registration marks; (Added 25 of 2005 s. 3)
- (he) the assignment, allocation upon sale by auction or at a special fee, cancellation or withdrawal by the Commissioner of personalized registration marks; (Added 25 of 2005 s. 3)
- (hf) the issue and cancellation by the Commissioner of certificates of allocation of personalized registration marks; (Added 25 of 2005 s. 3)
- (hg) appeal to the Administrative Appeals Board against any decision of the Commissioner to cancel a personalized registration mark; (Added 25 of 2005 s. 3)
- (hh) the consideration by the Commissioner as to whether a cancelled personalized registration mark is suitable for reallocation; (Added 25 of 2005 s. 3)
- (i) empowering the Commissioner to allocate upon sale by auction or at a special fee any unassigned registration mark, not being a special registration mark or a personalized registration mark, which has been requested by any person and which the Commissioner considers is suitable for allocation in such a manner; (Amended 39 of 1995 s. 5; 25 of 2005 s. 3)
- (ia) the engagement of such persons as the Commissioner thinks fit for the conduct of any auction for the purposes of this Ordinance; (Added 25 of 2005 s. 3)
- (j) the issue, use and cancellation of trade licences and trade plates;
- (k) notification to the Commissioner of alterations to vehicles and of the breaking up, destruction or export of vehicles;
- (l) notification to the Commissioner of transfer of ownership of vehicles and of changes of particulars recorded in the register;
- (la) notification to the Commissioner of the particulars of persons to whom personalized registration marks are allocated and of changes of such particulars; (Added 25 of 2005 s. 3)
- (m) the issue, display on vehicles, surrender and cancellation of-
  - (i) registration marks;
  - (ii) vehicle licences, licence certificates and permits;
  - (iii) certificates of fitness; and

- (iv) any other means of identification or information relating to the vehicle;
  - (ma) the seizure of number plates bearing any cancelled personalized registration mark from the motor vehicles on which they are displayed, and the authorization of public officers for that purpose; (Added 25 of 2005 s. 3)
  - (n) keeping a register of journeys made by motor vehicles in use under a trade licence;
  - (o) making the registration and licensing of public service vehicles, or of any type of public service vehicle, subject to tender or a special fee;
  - (p) the Commissioner to impose conditions on vehicle licences with regard to-
    - (i) the places where, and the times when, a vehicle may be used;
    - (ii) the number of passengers that may be carried and the manner in which they may be carried;
    - (iii) the manner in which a vehicle may be used;
    - (iv) the amount or type of goods that may be carried and the manner in which such goods may be carried;
    - (v) the type of trailer that may be towed;
    - (vi) the type of driving licence which must be held for driving a vehicle;
  - (q) the issue of permits with or without conditions to allow for-
    - (i) the movement of unregistered and unlicensed vehicles;
    - (ii) the carriage of passengers or goods otherwise than as permitted by the vehicle licence; and (Amended 58 of 1992 s. 2)
    - (iii) the movement of vehicles on roads closed to general traffic, (Amended 58 of 1992 s. 2)
    - (iv) (Repealed 58 of 1992 s. 2)
 and the cancellation of such permits;
  - (r) the issue of duplicates of any document issued under this Ordinance; and (Amended 89 of 1994 s. 4)
  - (s) (Repealed 89 of 1994 s. 4)
  - (t) generally carrying into effect the provisions of this Ordinance relating to the registration and licensing of vehicles.
- (1A) Regulations made under subsection (1) may empower the Commissioner to amend any Schedule to the regulations which specifies registration marks set aside to be offered for sale, at the discretion of the Commissioner, as personalized registration marks. (Added 25 of 2005 s. 3)
- (1B) Regulations made under subsection (1) may provide, where applications for personalized registration marks are to be considered by the Commissioner, for the Commissioner to specify-
- (a) the number of applications to be considered by him; and
  - (b) if the number of applications received exceeds the number specified, the procedures for selecting the applications to be so considered. (Added 25 of 2005 s. 3)
- (2) The Chief Executive in Council may make regulations to provide for- (Amended 25 of 2005 s. 3)
- (a) the fees that may be charged for registration, licensing, permits, certificates of fitness and extracts from the register and the waiving, exemption, reduction or refund of fees; and
  - (b) the Commissioner's power to refund, on the cancellation of a personalized registration mark, the price paid for it upon sale by auction or the special fee paid for it. (Added 89 of 1994 s. 4. Amended 3 of 2002 s. 15; 25 of 2005 s. 3)

Section:	7	<b>Regulation of public service vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may make regulations to provide for- (Amended 89 of 1994 s. 5; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
- (a) controlling the use of public service vehicles, their equipment and apparatus;
  - (b) the powers of authorized persons to regulate and control-
    - (i) the driving and use of public service vehicles; and
    - (ii) the conduct of persons using such vehicles including drivers, conductors, passengers and intending passengers;
  - (c) (Repealed 89 of 1994 s. 5)
  - (d) controlling or prohibiting the carriage of goods and dangerous items in public service vehicles;
  - (e) controlling or prohibiting the carriage of animals and birds in public service vehicles;
  - (f) the wearing of uniforms and insignia by drivers and other persons employed by owners or operators of public service vehicles;
  - (g) controlling the conduct of persons using or intending to use public service vehicles and persons employed

- by the owners or operators of public service vehicles;
  - (h) the designation and use of places where public service vehicles may stand or stop to pick up or set down passengers and the traffic signs and road markings pertaining thereto;
  - (i) (Repealed 89 of 1994 s. 5)
  - (j) the display of destination boards, identity plates of drivers, notices and advertisements on public service vehicles; (Amended 90 of 1993 s. 2)
  - (k) the control and disposal of property lost on public service vehicles;
  - (l) the issue, by ballot or otherwise, amendment and cancellation of passenger service licences in respect of public buses, public light buses, private buses and school private light buses, and the review by a Transport Tribunal of any decision of the Commissioner to amend any such licence; (Amended 36 of 1988 s. 2; 50 of 1999 s. 7)
  - (m) the issue, refusal to issue and cancellation by the Commissioner of permits authorizing the use of private cars for the carriage of passengers for hire or reward, the limitation by him of the number of such permits that may be issued for any particular type of hire car service, and the review by a Transport Tribunal of any decision of the Commissioner to refuse to issue or to cancel any such permit; and
  - (n) generally carrying into effect the provisions of this Ordinance relating to public service vehicles.
- (1A) Regulations made under this section may empower the Commissioner to specify by notice published in the Gazette requirements as to-
- (a) the design, construction, size, colour and form of;
  - (b) without affecting the generality of paragraph (a), the size and colour of any letters or characters in; and
  - (c) the position in which to display,
- any destination indicator, identity plate, plate holder, notice, sign or insignia required for the purposes of such regulations. (Added 54 of 1989 s. 2. Amended 90 of 1993 s. 2)
- (1B) The Chief Executive in Council may make regulations to provide for the arrest and detention of persons who commit, or are suspected of having committed, offences under the regulations. (Added 89 of 1994 s. 5. Amended 3 of 2002 s. 15)
- (1C) The Chief Executive in Council may make regulations to provide for the fares which may be charged on any public service vehicles other than buses operated under a franchise granted under the Public Bus Services Ordinance (Cap 230) and the fees which may be charged for the hire of a public service vehicle. (Added 89 of 1994 s. 5. Amended 3 of 2002 s. 15)
- (2) Where any regulation is made providing for the issue of hire car permits, the Commissioner may in his discretion-
- (a) in issuing any such permit, give priority to any person or class of persons;
  - (b) determine, in accordance with any such regulation, by lot any applications for the issue of such permits;
  - (c) limit the number of such permits which may be issued to any person or class of persons.

Section:	8	<b>Regulation of driving licences</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may make regulations to provide for- (Amended 89 of 1994 s. 6; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
- (a) the issue, reissue, renewal, variation, cancellation or withholding of, and imposing of conditions on, driving licences, international driving permits and driving instructors' licences; (Amended 23 of 2008 s. 4)
  - (aa) the review by a Transport Tribunal of any decision of the Commissioner to refuse to issue, to reissue, to renew or to cancel a driving licence or a driving instructor's licence; (Added 23 of 2008 s. 4)
  - (b) the maintenance of a register of driving licences, permits and penalties incurred by the holders of driving licences;
  - (c) the instruction and testing of persons applying for or holding driving licences and driving instructors' licences;
  - (d) the amendment by the Commissioner by order published in the Gazette of any provision made under this section specifying countries or places as countries or places the holders of whose driving certificates or licences are exempt from the requirement to take a driving test; and (Amended 89 of 1994 s. 6; 3 of 2002 s. 15)
  - (e) the control of holders of international driving permits and of driving licences and permits issued in places outside Hong Kong for use in such places. (Amended 89 of 1994 s. 6; 23 of 1998 s. 2)
  - (f)-(g) (Repealed 89 of 1994 s. 6)

- (1A) The Chief Executive in Council may make regulations to provide for- (Amended 3 of 2002 s. 15)
- (a) the fees to be charged in respect of any licence or permit granted to any person to drive a vehicle of a particular class or to instruct other persons to drive vehicle; and
  - (b) the waiving, exemption, reduction or refund of fees. (Added 89 of 1994 s. 6)
- (2) Regulations under this section with respect to the testing of persons applying for or holding driving licences may empower the Commissioner to specify that any vehicle used in such testing of persons shall conform with such requirements as the Commissioner may specify. (Added 36 of 1990 s. 2)

Section:	9	<b>Regulation of construction and maintenance of vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may make regulations generally as to the construction and maintenance of vehicles, and their equipment, and in particular, but without prejudice to the generality of the foregoing, may make regulations with respect to- (Amended 89 of 1994 s. 7; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
- (a) the width, height and length of vehicles and the load carried thereby, the diameter of wheels, and the width, nature and condition of tyres of vehicles;
  - (b) the emission by vehicles of smoke, fumes, vapour, sparks and grit;
  - (c) noise from vehicles;
  - (d) the weight of vehicles;
  - (e) the colour, markings and displaying of signs and advertisements on vehicles and enabling the Commissioner to specify requirements relating to the same; (Amended 89 of 1994 s. 7)
  - (f) the number and nature of brakes to be fitted, and for ensuring that brakes, silencers and steering mechanism shall be efficient and kept in proper working order;
  - (g) the appliances to be fitted for signalling the approach of a vehicle, or enabling the driver of a vehicle to become aware of the approach of another vehicle from the rear, or for intimating any intended change of speed or direction of a vehicle, and the use of any such appliance, and for securing that they shall be efficient and kept in proper working order;
  - (h) lighting equipment and reflectors to be fitted;
  - (i) the fitting, construction, operation and inspection of taximeters; (Replaced 66 of 1984 s. 2)
  - (ia) the design and construction of any vehicle intended for use as a private bus, a private light bus, a public bus, or a public light bus; and (Added 66 of 1984 s. 2)
  - (j) the construction and maintenance of public service vehicles including, without prejudice to the generality of the foregoing, the construction and maintenance of doors, entrances and exits, steps, handrails, floors, gangways, platforms, lighting, seating, ventilation, drivers' accommodation, luggage racks and shelves and electrical equipment and instruments.
- (2) Without prejudice to the generality of subsection (1) regulations under this section with respect to lighting equipment and reflectors may require that lamps be kept lit at such times and in such circumstances as may be specified in the regulations.
- (2A) Regulations under this section may provide for the authorization of persons to install devices required to be fitted to vehicles, the specification of conditions of any such authorization, the revocation and termination of any such authorization, and the review by a Transport Tribunal of any decision to revoke any such authorization. (Added 6 of 2012 s. 4)
- (3) Different regulations may be made under this section as respects different classes of vehicles or as respects the same class of vehicles in different circumstances and vehicles or classes of vehicles may be exempted from all or any of the regulations so made.

[cf. 1972 c. 20 s. 40 U.K.]

Section:	10	<b>Regulation of specified safety equipment</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may make regulations permitting or requiring the provision or use of specified safety equipment by persons driving, riding in or on, or using, any class of vehicle and controlling the sale, hire or possession of specified safety equipment. (Amended 89 of 1994 s. 8; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
- (2) The Chief Executive in Council may make regulations providing for the entry by a police officer of premises in which the police officer has reasonable grounds for believing that specified safety equipment not complying with the regulations is held for sale or hire, for the purpose of searching for and seizing such equipment. (Replaced 89 of 1994 s. 8. Amended 3 of 2002 s. 15)

- (3) In this section *specified safety equipment* (指明安全裝備) means such equipment or apparatus as is specified in subsection (4).
- (4) The following shall be specified safety equipment for the purposes of this section-
- (a) crash helmets;
  - (b) safety belts and means of securing safety belts;
  - (c) fire fighting equipment.
- (5) The Legislative Council may, by resolution, amend subsection (4).

Section:	11	<b>Regulation of traffic</b>	E.R. 2 of 2012	02/08/2012
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The Secretary may make regulations to provide for- (Amended 89 of 1994 s. 9; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)

- (a) the classification, design, colour, erection, placing, operation, maintenance, alteration and removal of permanent, temporary and variable traffic signs and road markings;
- (aa) the imposing, whether by the Commissioner or otherwise, of requirements on owners of private roads in relation to the erection, placing, operation, maintenance, alteration and removal of permanent, temporary and variable traffic signs and road markings on or near such roads; (Added 80 of 1988 s. 6)
- (ab) the Commissioner to cause any matter the subject of a requirement referred to in paragraph (aa) imposed on the owner of a private road to be done, and to recover from the owner as a civil debt the cost thereof; (Added 80 of 1988 s. 6)
- (ac) the Commissioner to specify traffic signs and road markings which may be erected or placed on or near any private road without a permit issued under this Ordinance; (Added 80 of 1988 s. 6)
- (b) prohibiting, controlling and restricting vehicular and pedestrian movements by or in relation to traffic signs or road markings;
- (c) prohibiting, controlling, restricting, directing or advising traffic both vehicular and pedestrian and passengers conveyed upon vehicular traffic;
- (d) controlling and regulating the manner of driving and the use of vehicles and the equipment and apparatus pertaining thereto;
- (e) controlling and regulating the use of roads and in particular prohibiting either absolutely or during specified hours-
  - (i) the driving of any specified type or class of vehicle; and
  - (ii) the manner in which a motor vehicle of any type or class may be used on a road;
- (f) the towing of or drawing of vehicles by motor vehicles;
- (g) controlling the manner of loading vehicles and securing of loads on vehicles;
- (h) the maximum weight to be transmitted to the road by a vehicle of any class or by any part or parts of such a vehicle in contact with the road, and the conditions under which the weights may be tested;
- (i) controlling the manner in which passengers may be carried in vehicles and the number of passengers which may be carried therein;
- (j) the establishment and control of pedestrian crossings of any type;
- (k) school crossing patrols, their powers and duties;
- (l) exempting the Government and any public officer from any liability for damage or injury caused to a school crossing patrol or to any person or to any thing arising from the actions of a school crossing patrol; (Amended 3 of 2002 s. 15)
- (m) the imposing of standards for the use and operation of offence detection equipment;
- (n) the discipline, duties, promotion, control and administration of traffic wardens;
- (o) the imposing of minimum speed limits on any road for any vehicles or for any class of vehicle; and
- (p) generally carrying into effect the provisions of this Ordinance relating to the regulation of traffic, whether generally or for a particular purpose including the protection of the environment. (Amended 83 of 1992 s. 2)

Section:	12	<b>Regulation of parking of vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may make regulations to provide for- (Amended 61 of 1991 s. 3; 89 of 1994 s. 10; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)

- (a) the prohibition and restriction of parking and loading and unloading of vehicles and the designation of zones within which parking or loading and unloading are restricted;
- (b) the designation by the Commissioner of-
  - (i) parking places including those for the use of which payment is to be made or indicated in a prescribed manner; or
  - (ii) places set aside for the loading and unloading of vehicles, and the traffic signs and road markings pertaining thereto; (Replaced 61 of 1991 s. 3)
- (c) the erection of traffic signs and the use of road markings for the control of parking;
- (d) the designation by the Commissioner of car parks for the use of vehicles of any description or of any particular type or class;
- (e) the management of car parks and the delegation of power to manage car parks and control their use;
- (f) controlling the use of car parks and parking places;
- (g) (Repealed 89 of 1994 s. 10)
- (h) controlling or prohibiting the repair of vehicles in public places, and the liability of vehicle owners and persons carrying out such repairs;
- (i) the erection and operation of parking meters and other apparatus designed to indicate payment for the use of parking space and the time that a vehicle may be parked;
- (j) without affecting the generality of paragraph (i), the erection of pay and display machines for the purpose of charging for parking of motor vehicles and the manner in which they may be used for such purpose; (Replaced 61 of 1991 s. 3)
- (k) the issue, the arrangement for issue and the authorization to issue by the Commissioner of parking cards and the conditions subject to which they are to be issued; (Replaced 61 of 1991 s. 3)
- (l) the erection and operation of any machine or apparatus designed and constructed to issue parking cards; (Added 61 of 1991 s. 3)
- (m) the suspension, cancellation and replacement of parking cards by or on behalf of the Commissioner; (Added 61 of 1991 s. 3)
- (n) evidence of the value of a parking card, the exchange or refund by the Commissioner or any other person authorized by him in such form as he or such authorized person may determine of the value of a parking card, or the surrender or return of a parking card to the Commissioner or such authorized person, and the charging of administrative costs of such amount as determined by the Commissioner in relation to these matters; (Added 61 of 1991 s. 3)
- (o) the charge in respect of the issue of a parking card and the determination by the Commissioner of the value or values for which parking cards are to be issued; (Added 61 of 1991 s. 3)
- (p) the approval by the Commissioner by notice published in the Gazette of any card or other device, not being a parking card, for use in-
  - (i) payment of a parking fee in conjunction with any parking meter or pay and display machine; or
  - (ii) operating an automatic vending machine, as he may specify; (Added 61 of 1991 s. 3)
- (q) the determination by the Commissioner of-
  - (i) denominations of coins or banknotes to be used in the operation of a parking meter, a pay and display machine or an automatic vending machine; or
  - (ii) directions and conditions relating to the use of a parking card or any card or other device referred to in paragraph (p) for payment of a parking fee or for obtaining a pay and display ticket or for operation an automatic vending machine; (Added 61 of 1991 s. 3)
- (r) the control and prohibition of-
  - (i) the possession of articles used or intended for use in intended for use in interfering with;
  - (ii) conduct that obstructs the use of, any parking meter, pay and display machine or machine or apparatus referred to in paragraph (l); (Added 61 of 1991 s. 3)
- (s) the control and regulation of the use of, or prohibition of the interference with, damage to, defacement or alteration of parking cards or display tickets; (Added 61 of 1991 s. 3)
- (sa) the issue, renewal, withholding and cancellation of parking permits for disabled persons, limitations on their use and the circumstances in which the permits shall be surrendered; (Added 83 of 1992 s. 3)
- (sb) the duties of the holder of a parking permit referred to in paragraph (sa), including the production of the permit for inspection and the display of the permit; (Added 83 of 1992 s. 3)

- (t) the amendment of any Schedule, other than a Schedule containing fees prescribed under subsection (2); (Added 61 of 1991 s. 3. Amended 89 of 1994 s. 10)
- (u) generally carrying into effect the provisions of this Ordinance relating to the regulation of parking. (Added 61 of 1991 s. 3)
- (2) The Chief Executive in Council may by regulation- (Amended 3 of 2002 s. 15)
  - (a) prescribe the maximum fee that may be charged for a specified period, for the use of any parking place or any parking space in any parking place; (Amended 83 of 1992 s. 3)
  - (b) in prescribing such maximum fee, prescribe different maximum fees in relation to parking apparatus of different classes or descriptions; (Added 61 of 1991 s. 3. Amended 83 of 1992 s. 3; 89 of 1994 s. 10)
  - (c) provide for the waiving, exemption, reduction or refund of the fees payable for the use of any parking place or any parking space in any parking place; and (Added 83 of 1992 s. 3. Amended 89 of 1994 s. 10)
  - (d) provide for the fees payable for the use of car parks. (Added 89 of 1994 s. 10)
- (3) Where regulations are made under subsection (2), the Commissioner may from time to time determine the fee applicable in relation to the use of any parking space in a particular parking place, or parking space, in respect of which a parking apparatus of the relevant class or description is erected but such fee shall not exceed, whether taking into account the period to which it relates or the amount of the fee, the maximum fee prescribed under subsection (2) in relation to the parking apparatus of that class or description. (Added 61 of 1991 s. 3)
- (4) Any fee determined by the Commissioner under subsection (3) shall be payable for the use of the relevant parking space and any fee payable for the use of any parking space pursuant to regulations made under this Ordinance and in operation immediately before the coming into operation of the Road Traffic (Amendment) (No. 2) Ordinance 1991 (61 of 1991) shall, unless or until a relevant determination is made under this section, be deemed to have been determined by the Commissioner under this section. (Added 61 of 1991 s. 3)

Section:	12A	<b>Regulation of village vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may make regulations in respect of village vehicles to provide for- (Amended 89 of 1994 s. 11; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
  - (a) the issue by the Commissioner of permits for the driving and use of village vehicles on roads; the specification by him of conditions on such permits, including, without limiting the generality thereof, conditions which restrict the use of the vehicles to specified roads and specified times; the limitation by him of the number of such permits that may be issued, either generally or in a particular area, and in respect of any type of village vehicle; the validity of such permits and the cancellation thereof, and the admission in evidence in any proceedings under this Ordinance of copies of any such permit;
  - (b) the construction and maintenance of village vehicles, the equipment to be carried or installed thereon, the appointment of vehicle examiners for the purposes of the regulations, the examination of such vehicles by vehicle examiners and police officers and the removal and detention of unsafe village vehicles;
  - (c) the regulation or prohibition of the driving and use of village vehicles on roads, and of the carriage of persons or goods on such vehicles; and the conduct of persons driving or using such vehicles;
  - (d) the production of village vehicle permits and the display of permit numbers on village vehicles;
  - (da) in the case of village vehicles which are golf carts-
    - (i) the specification by the Commissioner of conditions on village vehicle permits relating to the maximum number of passengers may be carried on such vehicles; and
    - (ii) the prohibition of the driving and use of such vehicles on such roads as are specified in the regulations except by persons who are holders of such driving licences as are specified in the regulations; and (Added 80 of 1988 s. 7. Amended 89 of 1994 s. 11)
  - (e) (Repealed 89 of 1994 s. 11)
  - (f) generally carrying into effect the provisions of this Ordinance relating to village vehicles.
- (1A) The Chief Executive in Council may make regulations to provide for the fees to be charged for any village vehicle permit, duplicate village vehicle permit, vehicle examination or any other matter arising under the regulations made under subsection (1) or to which such regulations otherwise relate. (Added 89 of 1994 s. 11. Amended 3 of 2002 s. 15)
- (2) Where under regulations made under subsection (1) a limit is imposed on the number of village vehicle permits that may be issued, the Commissioner may in his discretion-
  - (a) in issuing any such permit give priority to any person or class of persons;
  - (b) determine by lot any applications for the issue of such permits;



- (c) limit the number of such permits which may be issued to any persons or class of persons, and shall not be obliged to issue such permits up to the limit so imposed.
- (3) Fees prescribed under subsections (1) and (1A) may be fixed- (Amended 89 of 1994 s. 11)
  - (a) at levels which provide for the recovery of expenditure incurred or likely to be incurred by the Government in relation generally to the administration of this Ordinance and need not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in the provision of any particular village vehicle permit, vehicle examination or other matter; and
  - (b) at different levels in relation to different classes, types or descriptions of village vehicle, village vehicle permit, examination or other matter.

(Added 31 of 1986 s. 5)

Section:	13	<b>Provision for the Commissioner and others to act and charge fees, and for absolute liability</b>	E.R. 2 of 2012	02/08/2012
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- Any regulation made under section 6, 7, 8, 9, 10, 11, 12, 12A or 131 may- (Amended 31 of 1986 s. 6; 71 of 1991 s. 4)
- (a) empower the Commissioner, the Commissioner of Police, the Director of Highways or the operator to do any of the things or exercise any of the functions specified in such regulation and to charge such fee as may be prescribed by such regulation for the doing of any such thing or the exercise of any such function; (Amended L.N. 127 of 1986; 91 of 1993 s. 3)
  - (b) give power for any person or class of persons, or any vehicle or class or description of vehicles, to be exempted from the application of any regulations made under this Ordinance; (Amended 90 of 1993 s. 3)
  - (c) provide for the absolute liability of owners of public service vehicles regarding the use of their vehicles and of the owners of all vehicles regarding the condition and fitness of their vehicles; and (Amended 90 of 1993 s. 3)
  - (d) provide for the strict liability of owners of goods vehicles and special purpose vehicles regarding the overloading of their vehicles. (Added 90 of 1993 s. 3)

Section:	14	<b>Onus of proof in certain cases</b>	E.R. 2 of 2012	02/08/2012
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- (1) Any regulation made under this Ordinance may provide that in any criminal proceedings for a contravention thereof-
  - (a) it shall be for the person accused of such contravention to prove certain facts; or
  - (b) facts shall be presumed, with or without proof of other facts, until the contrary is proved.
- (2) Any regulation made in exercise of the powers conferred by subsection (1) shall be subject to the approval of the Legislative Council.

Section:	14A	<b>Transitional provisions in regulations</b>	E.R. 2 of 2012	02/08/2012
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- Any regulation made under this Ordinance may-
- (a) provide for the continuance in force of any regulations made under the repealed Ordinance with such modifications, adaptations and transitional provisions as the Chief Executive in Council sees fit; and (Amended 3 of 2002 s. 15)
  - (b) provide for the modification, adaptation and transition of any reference in any Ordinance to the repealed Ordinance or any regulations made under the repealed Ordinance.

(Added 66 of 1984 s. 3)

Section:	15	<b>Penalties under the regulations</b>	E.R. 2 of 2012	02/08/2012
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Any regulation made under section 6, 7, 8, 9, 10, 11, 12, 12A, 121 or 131 may provide that a contravention thereof shall be an offence, and may provide penalties for such offence not exceeding a fine of \$15000 and imprisonment for 9 months.

(Amended 31 of 1986 s. 7; 80 of 1988 s. 8; 71 of 1991 s. 5)

Part:	3	<b>Transport Tribunals</b>	E.R. 2 of 2012	02/08/2012
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Section:	16	<b>Transport Tribunals' panel</b>	E.R. 2 of 2012	02/08/2012
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- (1) There shall be a panel from which members of Transport Tribunals may be appointed under this Ordinance. (Amended 89 of 1994 s. 12)
- (2) The panel shall consist of such persons, not being public officers, as the Secretary may appoint. (Amended L.N. 362 of 1997; 19 of 2004 s. 3; L.N. 130 of 2007; 6 of 2012 s. 2)
- (3) The appointment of any person as a member of the panel shall have effect for not more than 3 years and a member of the panel shall be eligible for reappointment.
- (4) A member of the panel may resign at any time by notice in writing to the Secretary. (Amended L.N. 362 of 1997; 19 of 2004 s. 3; L.N. 130 of 2007; 6 of 2012 s. 2)

Section:	17	<b>Appointment of Transport Tribunals</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may appoint such Transport Tribunals as may from time to time be necessary for the purposes of this Ordinance.
- (2) A Transport Tribunal shall consist of-
  - (a) a chairman, who shall be a person other than a public officer, appointed by the Secretary; and (Amended 89 of 1994 s. 13)
  - (b) 2 members of the panel appointed under section 16. (Replaced 89 of 1994 s. 13)
  - (c) (Repealed 89 of 1994 s. 13)

(Amended L.N. 362 of 1997; 19 of 2004 s. 4; L.N. 130 of 2007; 6 of 2012 s. 2)

Section:	18	<b>Legal adviser to a Transport Tribunal</b>	E.R. 2 of 2012	02/08/2012
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- (1) A Transport Tribunal shall have a legal adviser who may be present at any hearing of the Tribunal in order to advise the Tribunal on any matter. (Amended 89 of 1994 s. 14)
- (2) A Transport Tribunal may, in connection with any hearing before it, consult a legal adviser on any question of law, procedure or any other matter.

Section:	19	<b>Powers of Transport Tribunal</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Chairman of a Transport Tribunal may by notice in writing summon any person to appear before the Tribunal to produce any document or to give evidence.
- (2) A Transport Tribunal may receive such evidence as it thinks fit, and neither the provisions of the Evidence Ordinance (Cap 8) nor any other rule of law relating to the admissibility of evidence shall apply in the proceedings before the Tribunal.
- (3) Any question arising in proceedings before a Transport Tribunal, not being a question relating to the practice and procedure of the Tribunal, shall, in the event of a difference between the members, be decided by the majority.
- (4) Any person, who being summoned to appear before a Transport Tribunal, refuses or fails without reasonable excuse to appear or to answer any question put to him by or with the consent of the Tribunal commits an offence and is liable to a fine of \$2000 and to imprisonment for 3 months:  
Provided that no person shall be bound to incriminate himself and every witness shall, in respect of any evidence given by him before the Tribunal, be entitled to the privileges to which he would be entitled if giving evidence before a court.
- (5) Any person who behaves in an insulting manner or uses any threatening or insulting expression to or in the presence of a Transport Tribunal commits an offence and is liable to a fine of \$1000 and to imprisonment for 3 months.

Section:	20	<b>Practice and procedure of Transport Tribunal</b>	E.R. 2 of 2012	02/08/2012
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- (1) Save in so far as provision is made therefor in this Ordinance, the practice and procedure in and in connection

with any hearing before a Transport Tribunal shall be such as the Chairman of the Tribunal may determine.

- (2) In proceedings before a Transport Tribunal, any person may appear in person or be represented by counsel, solicitor or agent.

Part:	4	<b>Registration and Licensing of Vehicles</b>	E.R. 2 of 2012	02/08/2012
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Section:	21	<b>Classification of vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) For the purposes of registration and licensing of vehicles under this Ordinance, vehicles are classified in accordance with Schedule 1.
- (2) The Secretary may by order amend Schedule 1. (Amended 89 of 1994 s. 15; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)

Section:	22	<b>Registration and licensing</b>	E.R. 2 of 2012	02/08/2012
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- (1) Except as otherwise provided by this Ordinance, every vehicle of a class specified in Schedule 1 which is used on any road shall be licensed.
- (2) A vehicle, other than a rickshaw, shall not be licensed under this Ordinance-
- unless it is registered; or
  - other than in the class within which it is registered.
- (3) Subject to sections 23, 24 and 26, the Commissioner shall register a vehicle in accordance with this Ordinance on application made in the prescribed manner.
- (4) Subject to sections 25 and 26, the Commissioner shall license a registered vehicle or a rickshaw in accordance with this Ordinance on application made in the prescribed manner.

Section:	23	<b>Power to regulate the number of vehicles registered</b>	E.R. 2 of 2012	02/08/2012
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- (1) Without prejudice to any other enactment, the Chief Executive in Council by notice in the Gazette may limit the number of vehicles which may at any time be registered by reference to any one or more of the following- (Amended 3 of 2002 s. 15)
- the total number of vehicles in all classes;
  - a class or description of vehicle or a description of the conditions subject to which vehicle licences will be issued;
  - the date of manufacture of vehicles;
  - the country of origin of vehicles.
- (2) Subject to subsection (3), any limit notified under subsection (1) shall remain in force for such period not exceeding 12 months as shall be specified in the notice.
- (3) The Legislative Council may from time to time by resolution extend the period for which a limit remains in force under subsection (2).
- (4) Any limit notified under subsection (1) shall not affect the registration of any vehicle in force when the notice comes into operation.
- (5) If the Commissioner-
- receives applications for the registration of vehicles within a category of vehicle which is the subject of a notice under subsection (1); and
  - would, but for the limit under subsection (1) on the number of vehicles that may be registered in that category, grant the applications,
- the Commissioner may cause the applications to be determined by lot.

Section:	24	<b>Power to refuse registration</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner may refuse to register any motor vehicle-
- which does not accord with the particulars contained in the application for the registration thereof;
  - which has been but is no longer registered in Hong Kong;

- (c) which is not roadworthy;
- (ca) which does not comply with vehicle design standards; (Amended 3 of 1991 s. 3)
- (cb) which-
  - (i) is the subject of first registration; and
  - (ii) does not comply with noise emission standards; (Added 13 of 1996 s. 3)
- (d) in order to comply with a limit which is in force under section 23; or
- (e) in respect of which-
  - (i) a notice under section 78 has not been complied with; or
  - (ii) a fee payable under section 86 has not been paid.
- (2) The Commissioner may refuse to register a motor vehicle in the class specified in the application for its registration if he considers that by reason of its design or construction or otherwise the vehicle is not suitable for registration in that class.
- (3) The Commissioner may refuse to register any vehicle which is already registered.

Section:	25	<b>Power to refuse or cancel licence and to impose conditions in respect of taxis</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner may-
  - (a) refuse to license; or
  - (b) cancel the licence of, a motor vehicle if-
    - (i) by reason of its design or construction, or any adaptation or the condition thereof, the vehicle or any equipment thereof does not comply with this Ordinance;
    - (ia) by reason of its design or construction, or any adaptation or the condition thereof, the vehicle or any equipment thereof does not comply with vehicle design standards; (Added 3 of 1991 s. 4)
    - (ib) the registered owner of the vehicle fails to have the vehicle tested at a vehicle emission testing centre (within the meaning of Part 8A) when required to do so by the Commissioner under section 77B; (Added 3 of 1991 s. 4)
    - (ic) the Commissioner has reasonable grounds to believe that its vehicle identification number has been altered or tampered with; (Added 89 of 1994 s. 16)
    - (ii) a notice under section 78 or an examination order under section 79 or a vehicle repair order under section 85(1) in respect of the vehicle has not been complied with;
    - (iia) the registered owner of the vehicle fails to have the vehicle examined at a car testing centre (within the meaning of Part 9A) when required to do so by the Commissioner under section 88B(1); (Added 3 of 1991 s. 4)
    - (iib) on examination under Part 8A the vehicle is found not to comply with vehicle emission standards; (Added 3 of 1991 s. 4)
    - (iic) the vehicle or any equipment thereof does not comply with any requirement imposed by regulations made under section 43(1) of the Air Pollution Control Ordinance (Cap 311) in relation to the prohibition or control of the emission of air pollutants from motor vehicles; (Added 3 of 1991 s. 4)
    - (iii) on examination under Part 9 or 9A the vehicle is found to be not roadworthy; (Amended 65 of 1985 s. 2)
    - (iv) any of the particulars contained in the application for the licence do not accord with the particulars contained in the register;
    - (v) the vehicle does not accord with the particulars contained in the application for the licence;
    - (vi) no valid insurance in respect of third party risks as required by the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap 272) is in force in respect of the vehicle; or
    - (vii) in the case of a private bus, school private light bus, public light bus or public bus (other than a bus operated under a franchise granted under the Public Bus Services Ordinance (Cap 230)) no passenger service licence is in force in respect of the vehicle. (Amended 50 of 1999 s. 8)
- (2) The Commissioner may-
  - (a) refuse to license a motor vehicle as a taxi for any reason not mentioned in subsection (1) if such reason appears to him to constitute good ground for refusal;
  - (b) license a motor vehicle as a taxi subject to such conditions as he may specify.
- (3) Conditions which the Commissioner may specify under subsection (2)(b) shall include conditions as to-
  - (a) an area outside which the vehicle shall not be available for hire or to carry passengers;

- (b) the place on any road at which passengers may board or alight from the vehicle;
  - (c) parking of the vehicle in particular places at particular time;
  - (d) standards of cleanliness of the vehicle;
  - (e) the colour of the vehicle;
  - (f) markings and signs to be exhibited on the vehicle; (Amended 67 of 1994 s. 2)
  - (g) the form of advertising signs in or on the vehicle; and (Amended 67 of 1994 s. 2)
  - (h) the period, after the licence is issued, within which the ownership of the vehicle shall not be transferred. (Added 67 of 1994 s. 2)
- (4) The Commissioner, on application to license a motor vehicle as a taxi shall take into account, in addition to any other matter which he considers relevant to the application-
- (a) the type of vehicle in respect of which application for the licence is made; and
  - (b) garaging and maintenance facilities available to the applicant.

(Amended E.R. 2 of 2012)

Section:	26	<b>Trailers and rickshaws</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner may, on any reasonable ground-
- (a) refuse to register any trailer;
  - (b) refuse to license any trailer or rickshaw; or
  - (c) cancel the licence of any trailer or rickshaw.
- (2) Without prejudice to subsection (1), the Commissioner may-
- (a) refuse to license; or
  - (b) cancel the licence of, any trailer or rickshaw which in his opinion-
    - (i) does not accord with the particulars contained in the application for the licence; or
    - (ii) is not roadworthy.
- (3) The Commissioner may license a trailer or rickshaw subject to such conditions relating to-
- (a) the roads on which it may be used;
  - (b) the hours when it may be used; and
  - (c) in the case of a trailer, the type of towing vehicle that may be used to tow it, as he thinks fit.

Section:	27	<b>Passenger service licence</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to the provisions of this section and of sections 28 and 29, the Commissioner may, on application made in the prescribed manner, issue a passenger service licence in respect of one or more public buses, public light buses, private buses or school private light buses for use in accordance with this Ordinance. (Amended 50 of 1999 s. 9)
- (2) Subsection (1) does not apply to a public bus operated under a franchise granted under the Public Bus Services Ordinance (Cap 230).
- (3) A passenger service licence may authorize the holder to operate-
- (a) a public bus service;
  - (b) a private bus service; (Amended 50 of 1999 s. 9)
  - (c) a public light bus service; or (Amended 50 of 1999 s. 9)
  - \* (d) a school private light bus service. (Added 50 of 1999 s. 9)
- (4) For the purposes of subsection (3)(a) a public bus service means a service which-
- (a) is for the carriage of passengers by public bus; and
  - (b) is of a type specified in section 4(3) of the Public Bus Services Ordinance (Cap 230) or of any other type approved by the Commissioner; and (Amended 66 of 1984 s. 4)
  - (c) is not required to be operated under a franchise granted under the Public Bus Services Ordinance (Cap 230).
- (5) For the purposes of subsection (3)(b) a private bus service means-
- (a) a student service, that is to say, a service for the carriage to or from an educational institution of students thereof and persons accompanying or in charge of such students or who teach at the educational institution, in private buses registered in the name of the educational institution;
  - (b) an employees' service, that is to say, a service provided by an employer for the carriage of his employees to

- or from their place of work, in private buses registered in the name of the employer;
- (c) a disabled persons' service, that is to say, a service provided exclusively for the carriage of disabled persons and of persons employed to assist them; (Amended 66 of 1984 s. 4)
- (d) any other service, which is not for hire or reward, approved by the Commissioner. (Added 66 of 1984 s. 4)
- (6) For the purposes of subsection (3)(c) a public light bus service means a service for the carriage by public light bus of passengers at separate fares.
- (7) A passenger service licence shall not be transferable.

**Note:**

\* Various amendments related to private light buses were made by Part III (sections 6 to 14) of the Road Traffic (Amendment) Ordinance 1999 (50 of 1999). Section 11 in that Part provides as follows-

**"11. Transitional**

**If immediately before the commencement+ of this Part, a licence issued under section 21 of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap 374 sub. leg.) is in force in respect of a private light bus, this Part shall not apply in relation to the private light bus until-**

- (a) the licence expires; or**
- (b) (if the licence expires on a date after 1 February 2000) 1 February 2001."**

**+ Commencement date: 1 October 1999**

Section:	28	<b>Matters to be taken into account in considering an application for a passenger service licence</b>	E.R. 2 of 2012	02/08/2012
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In determining an application for a passenger service licence, the Commissioner shall take into account, in addition to any other matter which he considers relevant to the application-

- (a) any policy direction from the Chief Executive with respect to the provision of public transport services; (Amended 3 of 2002 s. 15)
- (b) any limit in force under section 23 on the number of vehicles that may be registered;
- (c) the need for the services to be provided by the applicant;
- (d) the level of service already provided or planned by other public transport operators;
- (e) traffic conditions in the areas and on the roads where the services are to be provided; and
- (f) the standard of service to be provided by the applicant.

Section:	29	<b>Commissioner's power to refuse an application for a passenger service licence</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner may-
  - (a) refuse to issue a passenger service licence; or
  - (b) issue a passenger service licence subject to such conditions as he may specify, which shall include conditions as to-
    - (i) the number and types of vehicles that the licensee may use;
    - (ii) the purposes for which the vehicles may be used;
    - (iii) the areas or routes in or on which the vehicles may be used;
    - (iv) the places at which the vehicles may stand or stop to pick up or set down passengers;
    - (v) the garage facilities that the licensee must maintain;
    - (vi) where the Commissioner thinks fit, the staff that the licensee must employ;
    - (vii) the records that the licensee must keep;
    - (viii) the fares to be charged; and
    - (ix) the frequency at which and the period on each day during which the service shall be operated on routes specified in the licence.
- (2) Without limiting the generality of subsection (1)(a), the Commissioner may refuse to issue a passenger service licence in respect of any vehicle which is not, or is not to be, owned by the applicant for the licence.

Section:	30	<b>Inquiry where passenger service licence is contravened</b>	E.R. 2 of 2012	02/08/2012
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- (1) If the Commissioner has reason to believe in respect of any vehicle in respect of which a passenger service licence is in force that-
  - (a) the vehicle has been or is being used otherwise than for the purpose of the service authorized by the licence; or
  - (b) any condition of the licence or any provision of this Ordinance has not been or is not being complied with, he may appoint a public officer to hold an inquiry.
- (2) An officer appointed under subsection (1) shall fix a time and place for the inquiry and shall give 21 clear days' written notice thereof to the licensee.
- (3) An inquiry may be postponed if the officer conducting it thinks fit and where an inquiry is postponed the officer shall cause a notice to be served on the licensee specifying the date to which the inquiry has been postponed.
- (4) At an inquiry the officer conducting the inquiry shall consider-
  - (a) any evidence received by him, whether tendered on behalf of the licensee or otherwise, and any representations made by or on behalf of the licensee or otherwise;
  - (b) representations in writing by or on behalf of the licensee.

Section:	31	<b>Commissioner's power to cancel, suspend or vary a passenger service licence</b>	E.R. 2 of 2012	02/08/2012
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If after considering the report of an officer who has conducted an inquiry under section 30 the Commissioner is satisfied as to the matters set out in subsection (1)(a) or (b) of that section he may-

- (a) suspend or cancel the passenger service licence;
- (b) suspend or cancel the passenger service licence in respect of particular vehicles; or
- (c) vary the passenger service licence in respect of-
  - (i) routes;
  - (ii) approved purposes;
  - (iii) the number of vehicles included in the licence,

and shall notify the licensee of his decision.

Section:	32	<b>Effective date of a cancellation, suspension or variation</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to subsection (2), a cancellation, suspension or variation under section 31 shall come into effect 21 days from the date of notification to the licensee.
- (2) If a licensee applies for a review of the Commissioner's decision by a Transport Tribunal under section 33, a cancellation, suspension or variation shall not take effect pending the review, and shall take effect-
  - (a) where the application for the review is deemed to have been withdrawn under section 34(4); or
  - (b) where the cancellation, suspension or variation is confirmed or varied by a Transport Tribunal under section 35(2),
 on such date as the Commissioner shall specify in a notice served on the licensee.

Section:	33	<b>Right of review of Commissioner's determination under section 24, 25, 26, 29, or 31</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to subsection (2), where the Commissioner-
  - (a) refuses to register a vehicle under section 24 or 26;
  - (b) refuses to license a vehicle or cancels a licence under section 25 or 26;
  - (c) refuses to issue a passenger service licence under section 29 or cancels, suspends or varies a passenger service licence under section 31,
 the applicant or the holder of the licence may, within 21 days of being notified of the decision of the Commissioner, apply in writing to the Commissioner for a review of the Commissioner's decision by a Transport Tribunal.
- (2) This section shall not apply where the Commissioner-
  - (a) refuses to register a motor vehicle under section 24(1)(d) or(e);

- (b) refuses to license or cancels a motor vehicle licence under section 25(1)(ii).

Section:	34	<b>Practice and procedure on review</b>	E.R. 2 of 2012	02/08/2012
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- (1) On receipt of an application under section 33 the Commissioner shall fix a time and place for the review and shall give 14 clear days' notice thereof to the applicant.
- (2) The Commissioner shall, so far as practicable, ensure that the date of the review is not more than 30 days after the date of service of the notice under subsection (1).
- (3) A Transport Tribunal may postpone a review if it thinks fit and where a review is postponed the Commissioner shall cause a notice to be served on the applicant specifying the date to which the review has been postponed.
- (4) If an applicant or his authorized representative-
  - (a) does not appear before the Transport Tribunal on the date of the review notified to him in a notice under subsection (1) or (3); or
  - (b) makes no written representations,
 the application for a review shall be deemed to have been withdrawn.

Section:	35	<b>Determination of review</b>	E.R. 2 of 2012	02/08/2012
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- (1) On a review a Transport Tribunal shall consider-
  - (a) any evidence received by it, whether tendered on behalf of the applicant or otherwise, which it considers relevant to the review;
  - (b) any representations made by or on behalf of the applicant, whether orally or in writing;
  - (c) any representations made by or on behalf of the Commissioner, whether orally or in writing.
- (2) The Transport Tribunal may confirm or reverse a decision of the Commissioner under section 24, 25 or 26 and may confirm, reverse or vary a decision of the Commissioner under section 29 or 31.
- (3) The Commissioner shall notify an applicant of the Transport Tribunal's decision under subsection (2).
- (4) The decision of the Transport Tribunal under subsection (2) shall be final.

Part:	5	<b>Traffic Offences</b>	E.R. 2 of 2012	02/08/2012
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Section:	36	<b>Causing death by dangerous driving</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who causes the death of another person by driving a motor vehicle on a road dangerously commits an offence and is liable-
  - (a) on conviction on indictment to a fine at level 5 and to imprisonment for 10 years; (Amended 23 of 2008 s. 5)
  - (b) on summary conviction to a fine at level 4 and to imprisonment for 2 years.
- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate shall order that the person be disqualified in accordance with subsection (2A) or (2B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified. (Replaced 23 of 2008 s. 5)
- (2A) Subject to subsection (2B), the person is to be disqualified-
  - (a) in the case of a first conviction, for a period of not less than 5 years; and
  - (b) in the case of a second or subsequent conviction, for a period of not less than 10 years. (Added 23 of 2008 s. 5. Amended 19 of 2010 s. 6; 24 of 2011 s. 6)
- (2AB) A court or magistrate may, in making an order that a person be disqualified in accordance with subsection (2A), order that the person be disqualified for life, if-
  - (a) the person has been convicted of the same offence previously; and
  - (b) having regard to the circumstances in which the offence was committed (which may include but is not limited to those set out in subsection (2E)) and the behaviour of the person, the court or magistrate is of the opinion that it is undesirable for the person to continue to be allowed to drive a motor vehicle. (Added 24 of 2011 s. 6)
- (2B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under



- section 72A(1A), the person is to be disqualified-
- (a) in the case of a first conviction, for a period of not less than 5 years, or until the person has attended and completed the course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, for a period of not less than 10 years, or until the person has attended and completed the course at his own cost, whichever is the later. (Added 23 of 2008 s. 5. Amended 19 of 2010 s. 6; 24 of 2011 s. 6)
- (2C) For the purposes of subsection (2), a person to whom subsection (2B) applies is disqualified for a shorter period if he is disqualified-
- (a) in the case of a first conviction, for a period of less than 5 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, for a period of less than 10 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later. (Added 23 of 2008 s. 5. Amended 19 of 2010 s. 6; 24 of 2011 s. 6)
- (2D) If an offence under subsection (1) is committed in circumstances of aggravation, the maximum fine and term of imprisonment for the offence as set out in subsection (1), and the minimum disqualification periods for the offence as set out in subsections (2A) and (2B), are each increased by 50% and subsection (2C) must be construed accordingly. (Added 19 of 2010 s. 6)
- (2E) A person commits an offence under subsection (1) in circumstances of aggravation if at the time of committing the offence-
- (a) the proportion of alcohol in the person's breath, blood or urine is tier 3; or
  - (b) any concentration of a specified illicit drug is present in the person's blood or urine. (Added 19 of 2010 s. 6. Amended 24 of 2011 s. 6)
- (2F) To avoid doubt and despite anything to the contrary in section 113C of the Criminal Procedure Ordinance (Cap 221), the maximum fine for an offence under subsection (1) committed in circumstances of aggravation is the monetary amount derived by multiplying by 1.5 the maximum fine for the offence as set out in subsection (1). (Added 19 of 2010 s. 6)
- (3) The court or magistrate may deal with the conviction of an offence as a first conviction (including for the purposes of subsection (2AB)(a)) if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (1). (Replaced 23 of 2008 s. 5. Amended 24 of 2011 s. 6)
- (4) A person is to be regarded as driving dangerously within the meaning of subsection (1) if-
- (a) the way he drives falls far below what would be expected of a competent and careful driver; and
  - (b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.
- (5) A person is also to be regarded as driving dangerously within the meaning of subsection (1) if it would be obvious to a competent and careful driver that driving the motor vehicle concerned in its current state would be dangerous.
- (6) For the purposes of subsections (4) and (5), *dangerous* refers to danger either of injury to any person or of serious damage to property.
- (7) For the purposes of subsections (4) and (5), in determining what would be expected of, or obvious to, a competent and careful driver in a particular case, regard shall be had to all the circumstances of the case including-
- (a) the nature, condition and use of the road concerned at the material time;
  - (b) the amount of traffic which is actually on the road concerned at the material time or which might reasonably be expected to be on the road concerned at the material time; and
  - (c) the circumstances (including the physical condition of the accused) of which the accused could be expected to be aware and any circumstances (including the physical condition of the accused) shown to have been within the knowledge of the accused.
- (8) In determining for the purposes of subsection (5) the state of the motor vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is attached or carried.
- (9) If on the trial of any person charged with an offence under subsection (1) the prosecution proves that the person charged drove dangerously but not that he caused the death of another person by so driving, the person charged shall be acquitted of the offence under subsection (1) and be found guilty of an offence under section 37.
- (9A) If on the trial of any person charged with an offence under subsection (1) the prosecution proves that the person charged drove dangerously and caused grievous bodily harm to, but not the death of, another person by so driving, the person charged must be acquitted of the offence under subsection (1) and be found guilty of an

offence under section 36A. (Added 19 of 2010 s. 6)

- (10) On the trial of any person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 38, 39, 39A, 39J, 39K or 39L. (Amended 24 of 2011 s. 6)

(Replaced 33 of 2000 s. 2)

Section:	36A	<b>Causing grievous bodily harm by dangerous driving</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who causes grievous bodily harm to another person by driving a motor vehicle on a road dangerously commits an offence and is liable—
- (a) on conviction on indictment to a fine at level 5 and to imprisonment for 7 years;
  - (b) on summary conviction to a fine at level 4 and to imprisonment for 2 years.
- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate must order that the person be disqualified in accordance with subsection (3) or (4) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.
- (3) Subject to subsection (4), the period for which the person is to be disqualified is—
- (a) for a first conviction, a period of not less than 2 years; and
  - (b) for a second or subsequent conviction, a period of not less than 5 years.
- (4) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the period for which the person is to be disqualified is—
- (a) for a first conviction, a period of not less than 2 years, or until the person has attended and completed the course at his or her own cost, whichever is the later; and
  - (b) for a second or subsequent conviction, a period of not less than 5 years, or until the person has attended and completed the course at his or her own cost, whichever is the later.
- (5) For the purposes of subsection (2), a person to whom subsection (4) applies is disqualified for a shorter period if the period for which he or she is disqualified is—
- (a) for a first conviction, a period of less than 2 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later; and
  - (b) for a second or subsequent conviction, a period of less than 5 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later.
- (6) If an offence under subsection (1) is committed in circumstances of aggravation, the maximum fine and term of imprisonment for the offence as set out in subsection (1), and the minimum disqualification periods for the offence as set out in subsections (3) and (4), are each increased by 50% and subsection (5) must be construed accordingly.
- (7) A person commits an offence under subsection (1) in circumstances of aggravation if at the time of committing the offence—
- (a) the proportion of alcohol in the person's breath, blood or urine is tier 3; or
  - (b) any concentration of a specified illicit drug is present in the person's blood or urine. (Amended 24 of 2011 s. 7)
- (8) To avoid doubt and despite anything to the contrary in section 113C of the Criminal Procedure Ordinance (Cap 221), the maximum fine for an offence under subsection (1) committed in circumstances of aggravation is the monetary amount derived by multiplying by 1.5 the maximum fine for the offence as set out in subsection (1).
- (9) The court or magistrate may deal with the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have passed since the person's last conviction under subsection (1).
- (10) A person is to be regarded as driving dangerously within the meaning of subsection (1) if—
- (a) the way he or she drives falls far below what would be expected of a competent and careful driver; and
  - (b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.
- (11) A person is also to be regarded as driving dangerously within the meaning of subsection (1) if it would be obvious to a competent and careful driver that driving the motor vehicle concerned in its current state would be dangerous.
- (12) For the purposes of subsections (10) and (11), **dangerous** refers to danger either of injury to any person or of serious damage to property.
- (13) For the purposes of subsections (10) and (11), in determining what would be expected of, or obvious to, a

competent and careful driver in a particular case, regard must be had to all the circumstances of the case including—

- (a) the nature, condition and use of the road concerned at the material time;
  - (b) the amount of traffic which is actually on the road concerned at the material time or which might reasonably be expected to be on the road concerned at the material time; and
  - (c) the circumstances (including the physical condition of the accused) of which the accused could be expected to be aware and any circumstances (including the physical condition of the accused) shown to have been within the knowledge of the accused.
- (14) In determining for the purposes of subsection (11) the state of the motor vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is attached or carried.
- (15) If on the trial of any person charged with an offence under subsection (1) the prosecution proves that the person charged drove dangerously but not that he or she caused grievous bodily harm to another person by so driving, the person charged must be acquitted of the offence under subsection (1) and be found guilty of an offence under section 37.
- (16) On the trial of any person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 38, 39, 39A, 39J, 39K or 39L. (Amended 24 of 2011 s. 7)

(Added 19 of 2010 s. 7)

Section:	37	<b>Dangerous driving</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who drives a motor vehicle on a road dangerously commits an offence and is liable-
- (a) on conviction on indictment to a fine at level 4 and to imprisonment for 3 years;
  - (b) on summary conviction to a fine at level 3 and to imprisonment for 12 months.
- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate shall order that the person be disqualified in accordance with subsection (2A) or (2B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified. (Replaced 23 of 2008 s. 6)
- (2A) Subject to subsection (2B), the person is to be disqualified-
- (a) in the case of a first conviction, for a period of not less than 6 months; and
  - (b) in the case of a second or subsequent conviction, for a period of not less than 2 years. (Added 23 of 2008 s. 6. Amended 19 of 2010 s. 8)
- (2B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified-
- (a) in the case of a first conviction, for a period of not less than 6 months, or until the person has attended and completed the course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, for a period of not less than 2 years, or until the person has attended and completed the course at his own cost, whichever is the later. (Added 23 of 2008 s. 6. Amended 19 of 2010 s. 8)
- (2C) For the purposes of subsection (2), a person to whom subsection (2B) applies is disqualified for a shorter period if he is disqualified-
- (a) in the case of a first conviction, for a period of less than 6 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, for a period of less than 2 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later. (Added 23 of 2008 s. 6. Amended 19 of 2010 s. 8)
- (2D) If an offence under subsection (1) is committed in circumstances of aggravation, the maximum fine and term of imprisonment for the offence as set out in subsection (1), and the minimum disqualification periods for the offence as set out in subsections (2A) and (2B), are each increased by 50% and subsection (2C) must be construed accordingly. (Added 19 of 2010 s. 8)
- (2E) A person commits an offence under subsection (1) in circumstances of aggravation if at the time of committing the offence—
- (a) the proportion of alcohol in the person's breath, blood or urine is tier 3; or
  - (b) any concentration of a specified illicit drug is present in the person's blood or urine. (Added 19 of 2010 s.

8. Amended 24 of 2011 s. 8)

- (2F) To avoid doubt and despite anything to the contrary in section 113C of the Criminal Procedure Ordinance (Cap 221), the maximum fine for an offence under subsection (1) committed in circumstances of aggravation is the monetary amount derived by multiplying by 1.5 the maximum fine for the offence as set out in subsection (1). (Added 19 of 2010 s. 8)
- (3) The court or magistrate may deal with the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (1). (Replaced 23 of 2008 s. 6)
- (4) A person is to be regarded as driving dangerously within the meaning of subsection (1) if-
- the way he drives falls far below what would be expected of a competent and careful driver; and
  - it would be obvious to a competent and careful driver that driving in that way would be dangerous.
- (5) A person is also to be regarded as driving dangerously within the meaning of subsection (1) if it would be obvious to a competent and careful driver that driving the motor vehicle concerned in its current state would be dangerous.
- (6) For the purposes of subsections (4) and (5), **dangerous** refers to danger either of injury to any person or of serious damage to property.
- (7) For the purposes of subsections (4) and (5), in determining what would be expected of, or obvious to, a competent and careful driver in a particular case, regard shall be had to all the circumstances of the case including-
- the nature, condition and use of the road concerned at the material time;
  - the amount of traffic which is actually on the road concerned at the material time or which might reasonably be expected to be on the road concerned at the material time; and
  - the circumstances (including the physical condition of the accused) of which the accused could be expected to be aware and any circumstances (including the physical condition of the accused) shown to have been within the knowledge of the accused.
- (8) In determining for the purposes of subsection (5) the state of the motor vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is attached or carried.
- (9) On the trial of any person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 38, 39, 39A, 39J, 39K or 39L. (Amended 24 of 2011 s. 8)

(Replaced 33 of 2000 s. 2)

Section:	38	<b>Careless driving</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who drives a motor vehicle on a road carelessly commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months. (Amended 33 of 2000 s. 3)
- (2) A person drives carelessly within the meaning of this section if on a road he drives a vehicle without due care and attention or without reasonable consideration for other persons using the road.

Section:	39	<b>Driving a motor vehicle under the influence of drink*</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who drives or attempts to drive or is in charge of a motor vehicle on any road while he is under the influence of drink to such an extent as to be incapable of having proper control of the motor vehicle commits an offence and is liable-
- (Amended 24 of 2011 s. 9)
- on conviction on indictment to a fine at level 4 and to imprisonment for 3 years; and (Amended 39 of 1995 s. 6)
  - on summary conviction on a first offence to a fine at level 3 and to imprisonment for 6 months and on a second or subsequent conviction or on a conviction subsequent to a conviction under section 39A, 39B or 39C to a fine at level 4 and to imprisonment for 12 months. (Replaced 39 of 1995 s. 6)
- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate shall order that the person be disqualified in accordance with subsection (2A) or (2B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified. (Replaced 23 of 2008 s. 7)
- (2A) Subject to subsection (2B), the person is to be disqualified-
- in the case of a first conviction, for a period of not less than 2 years; and

- (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39A, 39B or 39C, for a period of not less than 5 years. (Added 23 of 2008 s. 7. Amended 19 of 2010 s. 9)
- (2B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified-
  - (a) in the case of a first conviction, for a period of not less than 2 years, or until the person has attended and completed the course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39A, 39B or 39C, for a period of not less than 5 years, or until the person has attended and completed the course at his own cost, whichever is the later. (Added 23 of 2008 s. 7. Amended 19 of 2010 s. 9)
- (2C) For the purposes of subsection (2), a person to whom subsection (2B) applies is disqualified for a shorter period if he is disqualified-
  - (a) in the case of a first conviction, for a period of less than 2 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39A, 39B or 39C, for a period of less than 5 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later. (Added 23 of 2008 s. 7. Amended 19 of 2010 s. 9)
- (3) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (1) or section 39A, 39B or 39C. (Replaced 23 of 2008 s. 7)
- (4) A person is deemed not to have been in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of his driving the motor vehicle so long as he remained under the influence of drink to such an extent as to be incapable of having proper control of the motor vehicle. (Added 39 of 1995 s. 6. Amended 24 of 2011 s. 9)
- (5) The court or magistrate may, in determining whether there was such a likelihood as is mentioned in subsection (4), disregard any injury to him and any damage to the vehicle. (Added 39 of 1995 s. 6)
- (6) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38. (Added 24 of 2011 s. 9)

**Note:**

\* (Amended 24 of 2011 s. 9)

Section:	39A	<b>Driving, attempting to drive or being in charge of a motor vehicle with alcohol concentration above prescribed limit</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who drives or attempts to drive a motor vehicle, or is in charge of a motor vehicle, on any road with the proportion of alcohol in his breath, blood or urine exceeding the prescribed limit, commits an offence and is liable-
  - (a) on conviction on indictment to a fine at level 4 and to imprisonment for 3 years; and
  - (b) on summary conviction on a first offence to a fine at level 3 and to imprisonment for 6 months and on a second or subsequent conviction or on a conviction subsequent to a conviction under section 39, 39B or 39C to a fine at level 4 and to imprisonment for 12 months.
- (1A) The proportion of alcohol in a person's breath, blood or urine is-
  - (a) tier 1 if it exceeds the prescribed limit but is less than-
    - (i) for breath, 35 micrograms of alcohol in 100 millilitres of breath;
    - (ii) for blood, 80 milligrams of alcohol in 100 millilitres of blood; or
    - (iii) for urine, 107 milligrams of alcohol in 100 millilitres of urine;
  - (b) tier 2 if it exceeds tier 1 but is less than-
    - (i) for breath, 66 micrograms of alcohol in 100 millilitres of breath;
    - (ii) for blood, 150 milligrams of alcohol in 100 millilitres of blood; or
    - (iii) for urine, 201 milligrams of alcohol in 100 millilitres of urine;
  - (c) tier 3 if it exceeds tier 2. (Added 19 of 2010 s. 10)
- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate shall order that the person be disqualified in accordance with subsection (2A) or (2B) unless the court or magistrate for

special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified. (Replaced 23 of 2008 s. 8)

- (2A) Subject to subsection (2B), the period for which the person is to be disqualified is-
- (a) for a first conviction, a period of not less than-
    - (i) 6 months if the proportion of alcohol in the person's breath, blood or urine is tier 1;
    - (ii) 12 months if the proportion of alcohol in the person's breath, blood or urine is tier 2;
    - (iii) 2 years if the proportion of alcohol in the person's breath, blood or urine is tier 3; and
  - (b) for a second or subsequent conviction (regardless of the proportion of alcohol in the person's breath, blood or urine on any previous conviction), or a conviction subsequent to a conviction under section 39, 39B or 39C, a period of not less than-
    - (i) 2 years if the proportion of alcohol in the person's breath, blood or urine is tier 1;
    - (ii) 3 years if the proportion of alcohol in the person's breath, blood or urine is tier 2;
    - (iii) 5 years if the proportion of alcohol in the person's breath, blood or urine is tier 3. (Replaced 19 of 2010 s. 10)
- (2B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified-
- (a) in the case of a first conviction, for a period of not less than that specified in subsection (2A)(a) according to the proportion of alcohol in the person's breath, blood or urine, or until the person has attended and completed the course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39B or 39C, for a period of not less than that specified in subsection (2A)(b) according to the proportion of alcohol in the person's breath, blood or urine, or until the person has attended and completed the course at his own cost, whichever is the later. (Added 23 of 2008 s. 8. Amended 19 of 2010 s. 10)
- (2C) For the purposes of subsection (2), a person to whom subsection (2B) applies is disqualified for a shorter period if he is disqualified-
- (a) in the case of a first conviction, for a period of less than that specified in subsection (2A)(a) according to the proportion of alcohol in the person's breath, blood or urine, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39B or 39C, for a period of less than that specified in subsection (2A)(b) according to the proportion of alcohol in the person's breath, blood or urine, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later. (Added 23 of 2008 s. 8. Amended 19 of 2010 s. 10)
- (3) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (1) or section 39, 39B or 39C. (Replaced 23 of 2008 s. 8)
- (4) A person is deemed not to have been in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of his driving the motor vehicle while the proportion of alcohol in his breath, blood or urine remained likely to exceed the prescribed limit.
- (5) The court or magistrate may, in determining whether there was such a likelihood as is mentioned in subsection (4), disregard any injury to him and any damage to the vehicle.
- (6) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38. (Added 24 of 2011 s. 10)

(Added 39 of 1995 s. 7)

Section:	39B	<b>Screening breath tests</b>	E.R. 2 of 2012	02/08/2012
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- (1) A police officer in uniform may require any of the following persons to provide a specimen of breath for a screening breath test-
- (a) a person who is driving or attempting to drive, or is in charge of, a motor vehicle on a road;
  - (b) a person whom the police officer has reasonable cause to suspect of-
    - (i) having been driving or attempting to drive, or been in charge of, a motor vehicle on a road with alcohol

- in his body, and still having alcohol in his body; or
- (ii) having been driving or attempting to drive, or been in charge of, a motor vehicle on a road, and having committed a traffic offence while the vehicle was in motion. (Replaced 23 of 2008 s. 9)
- (1A) Subsection (1)(a) does not apply to a person if, immediately before the police officer requires him to provide the specimen of breath-
- (a) the person has, at the request of the police officer, provided a specimen of breath to be tested by an approved pre-screening device; and
  - (b) the test does not indicate that the proportion of alcohol in the person's breath reaches such a level that it would be reasonable to suspect that such proportion is likely to exceed the prescribed limit. (Added 23 of 2008 s. 9)
- (2) If an accident occurs owing to the presence of a motor vehicle on any road, a police officer in uniform may require a person, whom the police officer has reasonable cause to suspect was driving or attempting to drive or in charge of the vehicle at the time of the accident, to provide a specimen of breath for a screening breath test.
- (3) A police officer in uniform may require a person to provide a specimen at or near the place where the requirement is made under subsection (1).
- (4) A police officer in uniform may require a person to provide a specimen under subsection (2) either at or near the place where the requirement is made or at a breath test centre, a police station or a hospital specified by the police officer. (Amended 50 of 1999 s. 3)
- (5) A police officer shall warn a person at the time of requiring a specimen for a screening breath test under this section that a failure to provide it may render him liable to prosecution.
- (6) A person who, without reasonable excuse, fails to provide a specimen of breath when required under this section commits an offence and is liable-
- (a) on conviction on indictment to a fine at level 4 and to imprisonment for 3 years; and
  - (b) on summary conviction on a first offence to a fine at level 3 and to imprisonment for 6 months and on a second or subsequent conviction or on a conviction subsequent to a conviction under section 39, 39A or 39C to a fine at level 4 and to imprisonment for 12 months.
- (7) If a court or magistrate convicts a person of an offence under subsection (6), the court or magistrate shall order that the person be disqualified in accordance with subsection (7A) or (7B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified. (Replaced 23 of 2008 s. 9)
- (7A) Subject to subsection (7B), the person is to be disqualified-
- (a) in the case of a first conviction, for a period of not less than 2 years; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39C, for a period of not less than 5 years. (Added 23 of 2008 s. 9. Amended 19 of 2010 s. 11)
- (7B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified-
- (a) in the case of a first conviction, for a period of not less than 2 years, or until the person has attended and completed the course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39C, for a period of not less than 5 years, or until the person has attended and completed the course at his own cost, whichever is the later. (Added 23 of 2008 s. 9. Amended 19 of 2010 s. 11)
- (7C) For the purposes of subsection (7), a person to whom subsection (7B) applies is disqualified for a shorter period if he is disqualified-
- (a) in the case of a first conviction, for a period of less than 2 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39C, for a period of less than 5 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later. (Added 23 of 2008 s. 9. Amended 19 of 2010 s. 11)
- (8) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (6) or section 39, 39A or 39C. (Replaced 23 of 2008 s. 9)
- (9) A police officer in uniform may arrest a person without warrant if-
- (a) as a result of a screening breath test he has reasonable cause to suspect that the proportion of alcohol in that person's breath exceeds the prescribed limit; or

- (b) the person has failed to provide a specimen of breath for a screening breath test when required to do so under this section.
- (10) A person fails to provide a specimen for a screening breath test unless the specimen-
- (a) is sufficient to enable the test to be carried out; and
  - (b) is provided in a way to enable the objective of the test to be satisfactorily achieved.
- (Added 39 of 1995 s. 7)

Section:	39C	<b>Provision of specimens for alcohol analysis*</b>	E.R. 2 of 2012	02/08/2012
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- (1) A police officer may require a person whose screening breath test indicates that the proportion of alcohol in that person's breath is likely to exceed the prescribed limit or who fails to provide a specimen for the screening breath test with reasonable excuse-
  - (a) to provide 2 specimens of breath for analysis by means of an approved breath analysing instrument; or
  - (b) to provide a specimen of blood or urine for a laboratory test.
- (2) The police officer shall decide that the person is to provide a specimen of blood or urine if-
  - (a) the police officer has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required; or
  - (b) at the time the requirement is made, an approved breath analysing instrument is not available at the breath test centre, the police station or the hospital where the requirement is made or it is for any other reason not practicable to use an approved breath analysing instrument. (Amended 50 of 1999 s. 4)
- (3) Evidence of the proportion of alcohol in a specimen of breath, blood or urine may be given by the production of a document which purports to be either-
  - (a) a statement automatically produced by the approved breath analysing instrument by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by an approved operator (which may but need not be contained in the same document as the statement) certifying that the statement relates to a specimen provided by the accused at the date and time shown in the statement and that the approved breath analysing instrument was operated correctly and properly when the specimen of breath was being taken; or
  - (b) a certificate under section 25 of the Evidence Ordinance (Cap 8) as to the proportion of alcohol found in a specimen of blood or urine identified in the certificate.
- (4) Evidence that a specimen of blood was taken from the accused with his consent by a medical practitioner, a registered nurse or an enrolled nurse may be given by the production of a document certifying that fact and purporting to be signed by the medical practitioner, the registered nurse or the enrolled nurse, as the case may be. (Amended 50 of 1999 s. 4)
- (5) Evidence that a specimen of urine was taken from the accused by a police officer or a medical practitioner may be given by the production of a document certifying that fact and purporting to be signed by a police officer or a medical practitioner, as the case may be.
- (6) A requirement under this section to provide a specimen of breath can only be made at a breath test centre, a police station or a hospital. (Amended 50 of 1999 s. 4)
- (7) A requirement under this section to provide a specimen of blood can only be made at a breath test centre, a police station or a hospital. (Amended 50 of 1999 s. 4)
- (8) A requirement under this section to provide a specimen of urine can only be made at a breath test centre, a police station or a hospital and the police officer making the requirement shall decide whether the specimen of urine is to be provided at a breath test centre, a police station or a hospital. (Amended 50 of 1999 s. 4)
- (9) The police officer requiring the provision of a specimen other than a specimen of breath under this section shall decide whether a specimen is to be of blood or of urine, but if a medical practitioner is of the opinion that for medical reasons a specimen of blood cannot or should not be taken the specimen shall be a specimen of urine.
- (10) If the police officer requires a person to provide a specimen of blood, the specimen of blood shall be taken by a medical practitioner, registered nurse or enrolled nurse specified by the police officer. (Amended 50 of 1999 s. 4)
- (11) Subject to subsection (11A), a specimen of blood must not be taken from a person unless the person consents to its being taken and it is so taken. (Replaced 24 of 2011 s. 12)
- (11A) A police officer may request a medical practitioner to take a specimen of blood from a person, if-
  - (a) he or she is a person the police officer is entitled to require-
    - (i) to provide a specimen of breath under section 39B(1)(b) or (2); or
    - (ii) to provide a specimen of blood under subsection (1)(b) or (2); and



- (b) it appears to the police officer that-
  - (i) (if it is a person referred to in paragraph (a)(i)) he or she may be incapable of providing a specimen of breath and of giving a valid consent to the taking of a specimen of blood, and (if it is a person referred to in paragraph (a)(ii)) he or she may be incapable of giving a valid consent to the taking of a specimen of blood; and
  - (ii) the incapacity is attributable to medical reasons. (Added 24 of 2011 s. 12)
- (11B) It is lawful for a medical practitioner to whom a request is made under subsection (11A), if the medical practitioner thinks fit-
  - (a) to take a specimen of blood from the person; and
  - (b) to provide the specimen to the police officer who made the request. (Added 24 of 2011 s. 12)
- (11C) A specimen of blood may be taken pursuant to a request under subsection (11A) only at a breath test centre, a police station or a hospital. (Added 24 of 2011 s. 12)
- (11D) If a specimen of blood is taken pursuant to a request under subsection (11A), it must not be subjected to a laboratory test unless the person from whom it was taken-
  - (a) has been informed that it was taken;
  - (b) has been required by a police officer to give consent to the analysis of the specimen for the purpose of evidence in the relevant investigation; and
  - (c) has given that consent. (Added 24 of 2011 s. 12)
- (11E) A police officer who makes a requirement referred to in subsection (11D)(b) must warn the person at the time of making the requirement that a failure to give consent may render the person liable to prosecution. (Added 24 of 2011 s. 12)
- (11F) Evidence that a specimen of blood was taken from a person referred to in subsection (11A) by a medical practitioner may be given by the production of a document certifying that fact and purporting to be signed by the medical practitioner. (Added 24 of 2011 s. 12)
- (11G) Evidence that a specimen of blood taken from a person under subsection (11B) was subjected to a laboratory test only after the person from whom it was taken was informed that it was taken and the person consented to the laboratory test may be given by the production of a document certifying that fact and purporting to be signed by the police officer who made the requirement referred to in subsection (11D)(b). (Added 24 of 2011 s. 12)
- (12) Evidence of the proportion of alcohol in a specimen of breath, blood or urine provided by the accused shall be evidence that the proportion of alcohol in the accused's breath, blood or urine at the time of the alleged offence was not less than that in the specimen.
- (13) Where, at the time a specimen of blood or urine was provided by the accused, he asked to be provided with such a specimen, evidence of the proportion of alcohol found in the specimen is not admissible on behalf of the prosecution unless-
  - (a) the specimen in which the alcohol was found is one of 2 parts into which the specimen provided by the accused was divided at the time it was provided; and
  - (b) the other part was supplied to the accused.
- (13A) If an accused from whom a specimen of blood was taken under subsection (11B), at the time he or she consented to its analysis, asked to be provided with a part of that specimen, evidence of the proportion of alcohol found in the specimen is not admissible on behalf of the prosecution unless-
  - (a) the specimen in which the alcohol was found is one of 2 parts into which the specimen taken from the accused was divided at the time it was taken; and
  - (b) the other part was supplied to the accused. (Added 24 of 2011 s. 12)
- (14) The person shall provide the specimen of urine within one hour of being required to provide it and after the provision of a previous specimen of urine.
- (15) A person who, without reasonable excuse, fails to provide a specimen when required to do so under this section or fails to give consent under subsection (11D)(b) commits an offence and is liable- (Amended 24 of 2011 s. 12)
  - (a) on conviction on indictment to a fine at level 4 and to imprisonment for 3 years; and
  - (b) on summary conviction on a first offence to a fine at level 3 and to imprisonment for 6 months and on a second or subsequent conviction or on a conviction subsequent to a conviction under section 39, 39A or 39B to a fine at level 4 and to imprisonment for 12 months.
- (16) If a court or magistrate convicts a person of an offence under subsection (15), the court or magistrate shall order that the person be disqualified in accordance with subsection (16A) or (16B) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified. (Replaced 23 of 2008 s. 10)

- (16A) Subject to subsection (16B), the person is to be disqualified-
- (a) in the case of a first conviction, for a period of not less than 2 years; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39B, for a period of not less than 5 years. (Added 23 of 2008 s. 10. Amended 19 of 2010 s. 12)
- (16B) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified-
- (a) in the case of a first conviction, for a period of not less than 2 years, or until the person has attended and completed the course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39B, for a period of not less than 5 years, or until the person has attended and completed the course at his own cost, whichever is the later. (Added 23 of 2008 s. 10. Amended 19 of 2010 s. 12)
- (16C) For the purposes of subsection (16), a person to whom subsection (16B) applies is disqualified for a shorter period if he is disqualified-
- (a) in the case of a first conviction, for a period of less than 2 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 39, 39A or 39B, for a period of less than 5 years, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later. (Added 23 of 2008 s. 10. Amended 19 of 2010 s. 12)
- (17) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have elapsed since the person's last conviction under subsection (15) or section 39, 39A or 39B. (Replaced 23 of 2008 s. 10)
- (18) A police officer shall warn a person at the time of requiring a specimen under this section that a failure to provide it may render him liable to prosecution.
- (19) A person fails to provide a specimen of breath, blood or urine for analysis or laboratory test unless the specimen-
- (a) is sufficient to enable the analysis or laboratory test to be carried out; and
  - (b) is provided in a way to enable the objective of the analysis or laboratory test to be satisfactorily achieved.
- (20) The Commissioner of Police may by notice in the Gazette designate a place or vehicle to be a breath test centre. (Added 50 of 1999 s. 4)
- (21) For the avoidance of doubt, a notice under subsection (20) is not subsidiary legislation. (Added 50 of 1999 s. 4)
- (22) For the purposes of this section, *registered nurse*(註冊護士) and *enrolled nurse*(登記護士) have the respective meanings assigned to them by section 2 of the Nurses Registration Ordinance (Cap 164). (Added 50 of 1999 s. 4)
- (Added 39 of 1995 s.

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**Note:**

\* (Amended 24 of 2011 s. 12)

Section:	39D	<b>Choice of specimens of breath</b>	E.R. 2 of 2012	02/08/2012
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- (1) The court or magistrate shall use the statement referred to in section 39C(3)(a) relating to the specimen with the lower proportion of alcohol out of the 2 specimens of breath a person provides under section 39C and shall disregard the other.

(2)-(4) (Repealed 19 of 2010 s. 13)

(Added 39 of 1995 s. 7)

Section:	39E	<b>Protection for hospital patients</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person at a hospital as a patient shall not be required to provide a specimen of breath for a screening breath test or breath analysis, a specimen of oral fluid for a Rapid Oral Fluid Test, or a specimen of blood or urine for a laboratory test unless the medical practitioner in immediate charge of his case has been notified of the proposal to make the requirement. (Amended 24 of 2011 s. 13)
- (2) A requirement made after the medical practitioner has been notified under subsection (1) is a requirement for the provision of a specimen at a hospital.
- (3) The requirement shall not be made if the medical practitioner objects on the ground specified in subsection (4)

and states in writing the diagnosis justifying the objection.

- (4) The ground on which the medical practitioner may object under subsection (3) is that the requirement or the provision of a specimen of breath for the screening breath test or breath analysis, a specimen of oral fluid for a Rapid Oral Fluid Test, a specimen of oral fluid for a Rapid Oral Fluid Test or a specimen of blood or urine for the laboratory test would be prejudicial to the proper care and treatment of the patient. (Amended 24 of 2011 s. 13)
- (5) To avoid doubt, this section does not apply to the taking of a specimen of blood from a person falling within section 39C(11A) or 39Q(1). (Added 24 of 2011 s. 13)

(Added 39 of 1995 s. 7)

Section:	39F	<b>Approval of instruments and operators</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner of Police 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; (Amended 23 of 2008 s. 11)
  - (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. (Added 23 of 2008 s. 11)
- (2) The Commissioner of Police may authorize in writing members of the police force as approved operators to carry out breath analysis using an approved breath analysing instrument.

(Added 39 of 1995 s. 7)

Section:	39G	<b>Amendment of prescribed limit</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may by notice in the Gazette amend the definition of *prescribed limit* (訂明限度) by varying the proportion of alcohol that constitutes the prescribed limit. (Amended L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
- (2) Notice of a variation in the prescribed limit will not 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.

(Added 39 of 1995 s. 7)

Section:	39H	<b>Amendment of tier 1, tier 2 or tier 3</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may by notice in the Gazette amend section 39A(1A) by varying the proportion of alcohol that constitutes tier 1, tier 2 or tier 3. (Amended 6 of 2012 s. 2)
- (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.

(Added 19 of 2010 s. 14)

Section:	39I	<b>Amendment of Schedule 1A</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may by notice in the Gazette amend Schedule 1A. (Amended 6 of 2012 s. 2)
- (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.

(Added 19 of 2010 s. 14)

Section:	39J	<b>Driving motor vehicle without proper control under influence of specified illicit drug</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who drives or attempts to drive, or is in charge of, a motor vehicle on any road while he or she is under the influence of a specified illicit drug to such an extent as to be incapable of having proper control of the motor vehicle commits an offence and is liable—
  - (a) on conviction on indictment, to a fine at level 4 and to imprisonment for 3 years; and
  - (b) on summary conviction—
    - (i) on a first offence under this subsection, to a fine at level 3 and to imprisonment for 6 months;
    - (ii) subsequent to a conviction on indictment under this subsection, to a fine at level 4 and to imprisonment for 12 months;
    - (iii) subsequent to a summary conviction under this subsection, to a fine at level 4 and to imprisonment for 12 months; or
    - (iv) subsequent to a conviction under section 39K, 39L, 39O(1) or 39S, to a fine at level 4 and to imprisonment for 12 months.
- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate must order that the person be disqualified in accordance with subsection (3) or (5) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.
- (3) Subject to subsection (5), the period for which the person is to be disqualified—
  - (a) for a first conviction, is a period of not less than 5 years; and
  - (b) for a subsequent conviction, is a period of not less than 10 years.
- (4) A court or magistrate may, on convicting a person under subsection (1), in making an order that he or she be disqualified in accordance with subsection (3), order that the person be disqualified for life, if—
  - (a) the person has been convicted of the same offence previously; and
  - (b) having regard to the circumstances in which the offence was committed and the behaviour of the person, the court or magistrate is of the opinion that it is undesirable for the person to continue to be allowed to drive a motor vehicle.
- (5) If the court or magistrate has ordered a person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified—
  - (a) for a first conviction, for a period of not less than 5 years, or until the person has attended and completed the course at his or her own cost, whichever is the later; and
  - (b) for a subsequent conviction, for a period of not less than 10 years, or until the person has attended and completed the course at his or her own cost, whichever is the later.
- (6) For the purposes of subsection (2), a person to whom subsection (5) applies is disqualified for a shorter period if the period for which he or she is disqualified—
  - (a) for a first conviction, is a period of less than 5 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later; and
  - (b) for a subsequent conviction, is a period of less than 10 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later.
- (7) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction (including for the purposes of subsection (4)(a)), if, as at the date on which the offence was committed, at least 5 years have passed since the person's last conviction under subsection (1) or section 39K, 39L, 39O(1) or 39S.
- (8) A person is taken not to have been in charge of a motor vehicle if he or she proves that at the material time the circumstances were such that there was no likelihood of the person's driving the motor vehicle so long as he or she remained under the influence of a specified illicit drug to such an extent as to be incapable of having proper control of the motor vehicle.
- (9) The court or magistrate may, in determining whether there was such a likelihood as is mentioned in subsection (8), disregard any injury to the person and any damage to the motor vehicle.
- (10) For the purposes of subsection (1), a person is under the influence of a specified illicit drug to such an extent as to be incapable of having proper control of the motor vehicle if—
  - (a) the person's ability to drive properly is for the time being impaired; and
  - (b) the concentration of the specified illicit drug or of the combination of such drugs present in the person's

blood or urine and to which the charge relates would usually result in a person being unable to drive properly.

- (11) It is a defence for a person charged under subsection (1) to prove that—
- (a) the specified illicit drug or the combination of such drugs found in the person’s blood or urine and to which the charge relates was lawfully obtained;
  - (b) he or she did not know and could not reasonably have known that the lawfully obtained specified illicit drug or the combination of such drugs found in the blood or urine would render him or her incapable of having proper control of a motor vehicle if consumed or used in accordance with advice; and
  - (c) he or she consumed or used that drug or combination of those drugs in accordance with that advice.
- (12) If on the trial of a person charged with an offence under subsection (1), the prosecution proves that the person drove or attempted to drive, or was in charge of, the motor vehicle on a road, and—
- (a) that a specified illicit drug was present in the person’s blood or urine but not that he or she was under the influence of the drug to such an extent as to be incapable of having proper control of the motor vehicle, the person charged must be acquitted of the offence under subsection (1) but may be found guilty of an offence under section 39K; or
  - (b) that the person was under the influence of a drug, but not a specified illicit drug, to such an extent as to be incapable of having proper control of the motor vehicle, the person charged must be acquitted of the offence under subsection (1) but may be found guilty of an offence under section 39L.
- (13) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38 and, to avoid doubt, subsection (11) does not apply to those offences.
- (14) For the purposes of subsection (11), a specified illicit drug is lawfully obtained if it is a specified illicit drug that is prescribed for or administered or supplied to an accused person by a healthcare professional.
- (15) In this section—

**advice** (指示) means, in relation to a drug that is referred to in subsection (14), written or oral advice given to an accused person by the healthcare professional who prescribed, administered or supplied the drug;

**first conviction** (首次定罪) means a conviction on a first offence under subsection (1) (whether a conviction on indictment or a summary conviction);

**healthcare professional** (醫護專業人員) means—

- (a) a medical practitioner;
- (b) a registered dentist as defined by section 2(1) of the Dentists Registration Ordinance (Cap 156);
- (c) a person whose name is entered on the register of pharmacists under section 5 of the Pharmacy and Poisons Ordinance (Cap 138); or
- (d) a person acting under the direction or supervision of a person referred to in paragraph (a), (b) or (c);

**subsequent conviction** (再次定罪) means—

- (a) a conviction subsequent to a first conviction; or
- (b) a conviction referred to in subsection (1)(b)(ii), (iii) or (iv).

(Added 24 of 2011 s. 14)

Section:	39K	<b>Driving motor vehicle with any concentration of specified illicit drug</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who drives or attempts to drive, or is in charge of, a motor vehicle on any road while any concentration of a specified illicit drug is present in the person’s blood or urine (whether or not any other drug is also so present) commits an offence and is liable—
- (a) on conviction on indictment, to a fine at level 4 and to imprisonment for 3 years; and
  - (b) on summary conviction—
    - (i) on a first offence under this subsection, to a fine at level 3 and to imprisonment for 6 months;
    - (ii) subsequent to a conviction on indictment under this subsection, to a fine at level 4 and to imprisonment for 12 months;
    - (iii) subsequent to a summary conviction under this subsection, to a fine at level 4 and to imprisonment for 12 months; or
    - (iv) subsequent to a conviction under section 39J, 39L, 39O(1) or 39S, to a fine at level 4 and to

imprisonment for 12 months.

- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate must order that the person be disqualified in accordance with subsection (3) or (4) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.
- (3) Subject to subsection (4), the period for which the person is to be disqualified—
  - (a) for a first conviction, is a period of not less than 2 years; and
  - (b) for a subsequent conviction, is a period of not less than 5 years.
- (4) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified—
  - (a) for a first conviction, for a period of not less than 2 years, or until the person has attended and completed the course at his or her own cost, whichever is the later; and
  - (b) for a subsequent conviction, for a period of not less than 5 years, or until the person has attended and completed the course at his or her own cost, whichever is later.
- (5) For the purposes of subsection (2), a person to whom subsection (4) applies is disqualified for a shorter period if the period for which he or she is disqualified—
  - (a) for a first conviction, is a period of less than 2 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later; and
  - (b) for a subsequent conviction, is a period of less than 5 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later.
- (6) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction, if, as at the date on which the offence was committed, at least 5 years have passed since the person's last conviction under subsection (1) or section 39J, 39L, 39O(1) or 39S.
- (7) It is a defence for a person charged under subsection (1) to prove that—
  - (a) if only one specified illicit drug was present in his or her blood or urine, that drug; or
  - (b) if more than one specified illicit drug was present in his or her blood or urine, every such drug, was a specified illicit drug that was prescribed for or administered or supplied to the person by a healthcare professional.
- (8) A person is taken not to have been in charge of a motor vehicle if he or she proves that at the material time the circumstances were such that there was no likelihood of the person's driving the motor vehicle so long as any concentration of a specified illicit drug was present in his or her blood or urine.
- (9) The court or magistrate may, in determining whether there was such a likelihood as is mentioned in subsection (8), disregard any injury to the person and any damage to the motor vehicle.
- (10) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38 and, to avoid doubt, subsection (7) does not apply to those offences.
- (11) In this section—

**first conviction** (首次定罪) means a conviction on a first offence under subsection (1) (whether a conviction on indictment or a summary conviction);

**healthcare professional** (醫護專業人員) has the meaning given by section 39J(15).

**subsequent conviction** (再次定罪) means—

- (a) a conviction subsequent to a first conviction; or
  - (b) a conviction referred to in subsection (1)(b)(ii), (iii) or (iv).
- (12) In this section a reference to a conviction for an offence under subsection (1) includes a conviction pursuant to section 39J(12)(a).

(Added 24 of 2011 s. 14)

Section:	39L	<b>Driving motor vehicle without proper control under influence of drug other than specified illicit drug</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who drives or attempts to drive, or is in charge of, a motor vehicle on any road while he or she is under the influence of a drug other than a specified illicit drug (**non-specified drug**) to such an extent as to be incapable of having proper control of the motor vehicle commits an offence and is liable—
  - (a) on conviction on indictment, to a fine at level 4 and to imprisonment for 3 years; and

- (b) on summary conviction—
  - (i) on a first offence under this subsection, to a fine at level 3 and to imprisonment for 6 months;
  - (ii) subsequent to a conviction on indictment under this subsection, to a fine at level 4 and to imprisonment for 12 months;
  - (iii) subsequent to a summary conviction under this subsection, to a fine at level 4 and to imprisonment for 12 months; or
  - (iv) subsequent to a conviction under section 39J, 39K, 39O(1) or 39S, to a fine at level 4 and to imprisonment for 12 months.
- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate must order that the person be disqualified in accordance with subsection (3) or (4) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.
- (3) Subject to subsection (4), the period for which the person is to be disqualified—
  - (a) for a first conviction, is a period of not less than 6 months; and
  - (b) for a subsequent conviction, is a period of not less than 2 years.
- (4) If the court or magistrate has ordered a person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified—
  - (a) for a first conviction, for a period of not less than 6 months, or until the person has attended and completed the course at his or her own cost, whichever is the later; and
  - (b) for a subsequent conviction, for a period of not less than 2 years, or until the person has attended and completed the course at his or her own cost, whichever is the later.
- (5) For the purposes of subsection (2), a person to whom subsection (4) applies is disqualified for a shorter period if the period for which he or she is disqualified—
  - (a) for a first conviction, is a period of less than 6 months, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later; and
  - (b) for a subsequent conviction, is a period of less than 2 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later.
- (6) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction, if, as at the date on which the offence was committed, at least 5 years have passed since the person's last conviction under subsection (1) or section 39J, 39K, 39O(1) or 39S.
- (7) A person is taken not to have been in charge of a motor vehicle if he or she proves that at the material time the circumstances were such that there was no likelihood of the person's driving the motor vehicle so long as he or she remained under the influence of a non-specified drug to such an extent as to be incapable of having proper control of the motor vehicle.
- (8) The court or magistrate may, in determining whether there was such a likelihood as is mentioned in subsection (7), disregard any injury to the person and any damage to the motor vehicle.
- (9) For the purposes of subsection (1), a person is under the influence of a non-specified drug to such an extent as to be incapable of having proper control of the motor vehicle if—
  - (a) the person's ability to drive properly is for the time being impaired; and
  - (b) the concentration of the non-specified drug or of the combination of such drugs present in the person's blood or urine and to which the charge relates would usually result in a person being unable to drive properly.
- (10) It is a defence for a person charged under subsection (1) to prove that—
  - (a) the non-specified drug or the combination of such drugs found in the person's blood or urine and to which the charge relates was lawfully obtained;
  - (b) he or she did not know and could not reasonably have known that the lawfully obtained non-specified drug or the combination of such drugs found in the blood or urine would render him or her incapable of having proper control of a motor vehicle if consumed or used in accordance with advice; and
  - (c) he or she consumed or used that drug or combination of those drugs in accordance with that advice.
- (11) On the trial of a person charged with an offence under subsection (1), the person charged may be acquitted of the offence under subsection (1) and be found guilty of one or more offences under section 37 or 38 and, to avoid doubt, subsection (10) does not apply to those offences.
- (12) For the purposes of subsection (10), a non-specified drug is lawfully obtained if it is—
  - (a) a non-specified drug that is prescribed for or administered or supplied to an accused person by a healthcare

- professional;
- (b) a non-specified drug that is a pharmaceutical product as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap 138)—
    - (i) that is registered as mentioned in regulation 36 of the Pharmacy and Poisons Regulations (Cap 138 sub. leg. A); and
    - (ii) for the sale of which a prescription is not required by Hong Kong law; or
  - (c) a non-specified drug that is a proprietary Chinese medicine, as defined by section 2(1) of the Chinese Medicine Ordinance (Cap 549), that is registered under section 121 of that Ordinance.

(13) In this section—

**advice** (指示) means, in relation to a drug that is referred to in—

- (a) subsection (12)(a)—
  - (i) written or oral advice given to an accused person by the healthcare professional who prescribed, administered or supplied the drug; and
  - (ii) information written on a label, as defined by section 2(1) of the Pharmacy and Poisons Ordinance (Cap 138), accompanying the prescribed or supplied drug;
- (b) subsection (12)(b), any information written on a label referred to in paragraph (a)(ii) accompanying the drug; and
- (c) subsection (12)(c), any information on the package insert, as defined by section 2(1) of the Chinese Medicine Ordinance (Cap 549), supplied with the drug;

**first conviction** (首次定罪) means a conviction on a first offence under subsection (1) (whether a conviction on indictment or a summary conviction);

**healthcare professional** (醫護專業人員) means—

- (a) a medical practitioner;
- (b) a registered dentist as defined by section 2(1) of the Dentists Registration Ordinance (Cap 156);
- (c) a registered Chinese medicine practitioner or a listed Chinese medicine practitioner, as defined by section 2(1) of the Chinese Medicine Ordinance (Cap 549);
- (d) a person whose name is entered on the register of pharmacists under section 5 of the Pharmacy and Poisons Ordinance (Cap 138); or
- (e) a person acting under the direction or supervision of a person referred to in paragraph (a), (b), (c) or (d);

**subsequent conviction** (再次定罪) means—

- (a) a conviction subsequent to a first conviction; or
- (b) a conviction referred to in subsection (1)(b)(ii), (iii) or (iv).

(14) In this section a reference to a conviction for an offence under subsection (1) includes a conviction pursuant to section 39J(12)(b).

(Added 24 of 2011 s. 14)

Section:	39M	<b>Persons who may be required to undergo preliminary drug test</b>	E.R. 2 of 2012	02/08/2012
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- (1) A police officer may require a person referred to in subsection (2) to undergo one or more of the following—
  - (a) a Drug Influence Recognition Observation;
  - (b) an Impairment Test;
  - (c) a Rapid Oral Fluid Test.
- (2) A person who may be required to undergo a preliminary drug test under subsection (1) is any person whom the police officer has reasonable cause to suspect—
  - (a) has been driving or attempting to drive, or has been in charge of, a motor vehicle on a road while any concentration of a specified illicit drug was present in his or her blood or urine or while under the influence of any drug; or
  - (b) has been driving or attempting to drive, or has been in charge of, a motor vehicle on a road and has committed a traffic offence while the motor vehicle was in motion.
- (3) If an accident occurs owing to the presence of a motor vehicle on a road, a police officer may require a person, whom the police officer has reasonable cause to suspect was driving or attempting to drive, or was in charge of, the motor vehicle at the time of the accident, to undergo one or more preliminary drug tests.



- (4) A person is not obliged to undergo an Impairment Test under subsection (1) or (3) if—
  - (a) immediately before the requirement to undergo such a test is made, he or she, on being required by a police officer, had undergone a Drug Influence Recognition Observation; and
  - (b) the authorized police officer who carried out the Drug Influence Recognition Observation did not form an opinion that he or she was under the influence of a drug.
- (5) An authorized police officer may require a person referred to in subsection (2) or (3) to provide one or more specimens of oral fluid to carry out a Rapid Oral Fluid Test.
- (6) A police officer or an authorized police officer who makes a requirement under subsection (1), (3) or (5) must warn the person at the time of making the requirement that—
  - (a) a failure to provide the specimen or specimens he or she is required to provide may render him or her liable to prosecution;
  - (b) he or she may be required to undergo more than one of the preliminary drug tests referred to in subsection (1); and
  - (c) a failure to undergo any of those tests he or she is required to undergo may render him or her liable to prosecution.
- (7) A Drug Influence Recognition Observation or a Rapid Oral Fluid Test may be carried out at or near the place where the requirement is made.
- (8) An Impairment Test must be carried out at a police station specified by the police officer who makes the requirement.
- (9) Evidence whether an accused person’s ability to drive properly was impaired by the consumption or use of a drug may be given by the production of a document purporting to—
  - (a) be the opinion of the authorized police officer who carried out the Impairment Test as to whether the person’s ability to drive properly was impaired; and
  - (b) be signed by the authorized police officer who carried out the Impairment Test.

(Added 24 of 2011 s. 14)

Section:	39N	<b>Drivers may be required to undergo Rapid Oral Fluid Test</b>		
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Remarks:

Not yet in operation

- (1) A police officer may require a person who is driving or attempting to drive, or is in charge of, a motor vehicle on a road, to undergo a Rapid Oral Fluid Test to detect whether any specified illicit drug is present in his or her oral fluid.
- (2) An authorized police officer may require a person referred to in subsection (1) to provide one or more specimens of oral fluid to carry out a Rapid Oral Fluid Test.
- (3) An authorized police officer who makes a requirement under subsection (2) must warn the person at the time of making the requirement that a failure to provide the specimen or specimens he or she is required to provide may render him or her liable to prosecution.
- (4) A Rapid Oral Fluid Test may be carried out at or near the place where the requirement is made.

(Added 24 of 2011 s. 14)

Section:	39O	<b>Failure to undergo preliminary drug test</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who, without reasonable excuse, fails to undergo an Impairment Test or to provide a specimen or specimens (if more than one is required) of oral fluid to carry out a Rapid Oral Fluid Test when required to do so under section 39M or 39N commits an offence and is liable—
  - (a) on conviction on indictment, to a fine at level 4 and to imprisonment for 3 years; and
  - (b) on summary conviction—
    - (i) on a first offence under this subsection, to a fine at level 3 and to imprisonment for 6 months;
    - (ii) subsequent to a conviction on indictment under this subsection, to a fine at level 4 and to imprisonment for 12 months;
    - (iii) subsequent to a summary conviction under this subsection, to a fine at level 4 and to imprisonment for 12 months; or

- (iv) subsequent to a conviction under section 39J, 39K, 39L or 39S, to a fine at level 4 and to imprisonment for 12 months.
- (2) Without limiting subsection (1), a person fails to provide any specimen of oral fluid unless the specimen—
  - (a) is sufficient to enable the Rapid Oral Fluid Test to be carried out; and
  - (b) is provided in a way to enable the objective of the test to be satisfactorily achieved.
- (3) A person who, without reasonable excuse, fails to undergo a Drug Influence Recognition Observation when required to do so under section 39M commits an offence and is liable on conviction to a fine at level 1 and to imprisonment for 3 months.
- (4) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate must order that the person be disqualified in accordance with subsection (5) or (6) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.
- (5) Subject to subsection (6), the period for which the person is to be disqualified—
  - (a) for a first conviction, is a period of not less than 5 years; and
  - (b) for a subsequent conviction, is a period of not less than 10 years.
- (6) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified—
  - (a) for a first conviction, for a period of not less than 5 years, or until the person has attended and completed the course at his or her own cost, whichever is the later; and
  - (b) for a subsequent conviction, for a period of not less than 10 years, or until the person has attended and completed the course at his or her own cost, whichever is the later.
- (7) For the purposes of subsection (4), a person to whom subsection (6) applies is disqualified for a shorter period if the period for which he or she is disqualified—
  - (a) for a first conviction, is a period of less than 5 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later; and
  - (b) for a subsequent conviction, is a period of less than 10 years, or until the person has attended and completed the driving improvement course at his or her own cost, whichever is the later.
- (8) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction, if, as at the date on which the offence was committed, at least 5 years have passed since the person's last conviction under subsection (1) or section 39J, 39K, 39L or 39S.
- (9) A police officer may arrest a person without a warrant if—
  - (a) as a result of a Rapid Oral Fluid Test carried out on the person, the police officer has reasonable cause to suspect that any concentration of a specified illicit drug is present in his or her oral fluid;
  - (b) as a result of a Drug Influence Recognition Observation carried out on the person, the police officer has reasonable cause to suspect that he or she has committed an offence under section 39J(1), 39K(1) or 39L(1);
  - (c) as a result of an Impairment Test carried out on the person, the police officer has reasonable cause to suspect that he or she has committed an offence under section 39J(1), 39K(1) or 39L(1);
  - (d) he or she fails to undergo a Drug Influence Recognition Observation when required to do so under section 39M;
  - (e) he or she fails to undergo an Impairment Test when required to do so under section 39M; or
  - (f) he or she fails to provide a specimen or specimens of oral fluid to carry out a Rapid Oral Fluid Test when required to do so under section 39M or 39N.
- (10) In this section—

**first conviction** (首次定罪) means a conviction on a first offence under subsection (1) (whether a conviction on indictment or a summary conviction);

**subsequent conviction** (再次定罪) means—

- (a) a conviction subsequent to a first conviction; or
- (b) a conviction referred to in subsection (1)(b)(ii), (iii) or (iv).

(Added 24 of 2011 s. 14)

Section:	39P	<b>Provision of specimen for drug analysis</b>	E.R. 2 of 2012	02/08/2012
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- (1) A police officer may require a person to provide a specimen of blood or urine, or specimens both of blood and urine, for a laboratory test, if the results of the Rapid Oral Fluid Test carried out on the person indicate that any

concentration of a specified illicit drug is present in his or her oral fluid.

- (2) An authorized police officer who has carried out an Impairment Test on a person may require the person to provide a specimen of blood or urine, or specimens both of blood and urine, for a laboratory test, if the police officer is of the opinion that the results of the Impairment Test indicate that his or her ability to drive properly is for the time being impaired.
- (3) A police officer may require a person on whom a preliminary drug test could not be carried out due to a medical reason or any other reasonable cause, to provide a specimen of blood or urine, or specimens both of blood and urine, for a laboratory test, if the police officer has reasonable cause to suspect that—
  - (a) any concentration of a specified illicit drug is present in his or her blood, urine or oral fluid; or
  - (b) he or she is under the influence of any drug.
- (4) A requirement to provide any specimen under subsection (1), (2) or (3) can only be made at a breath test centre, a police station or a hospital.
- (5) A police officer or an authorized police officer who makes a requirement under subsection (1), (2) or (3) must decide whether the specimen is to be of blood or urine or whether both blood and urine specimens are to be taken, but if a medical practitioner is of the opinion that for medical reasons a specimen of blood cannot or should not be taken, only a specimen of urine may be taken.
- (6) A specimen of blood under subsection (1), (2) or (3) may only be taken by a medical practitioner, a registered nurse or an enrolled nurse, specified by a police officer in each case.
- (7) A person must provide the specimen of urine within 1 hour of being required to provide it.
- (8) A police officer or an authorized police officer who makes a requirement under this section must warn the person at the time of requiring the specimen that a failure to provide it may render him or her liable to prosecution.
- (9) Subject to section 39Q, a specimen of blood must not be taken from a person unless he or she consents to its being taken and it is so taken.
- (10) Evidence that a specimen of blood was taken from the accused person with his or her consent by a medical practitioner, a registered nurse or an enrolled nurse may be given by the production of a document certifying that fact and purporting to be signed by the medical practitioner, the registered nurse or the enrolled nurse.
- (11) Evidence that a specimen of urine was taken from the accused person by a police officer or a medical practitioner may be given by the production of a document certifying that fact and purporting to be signed by the police officer or the medical practitioner.
- (12) In this section—

**enrolled nurse** (登記護士) has the meaning given by section 2(1) of the Nurses Registration Ordinance (Cap 164);

**registered nurse** (註冊護士) has the meaning given by section 2(1) of the Nurses Registration Ordinance (Cap 164).

(Added 24 of 2011 s. 14)

Section:	39Q	<b>Specimens of blood from persons incapable of consenting</b>	E.R. 2 of 2012	02/08/2012
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- (1) A police officer may request a medical practitioner to take a specimen of blood from a person, if—
  - (a) he or she is a person the police officer is entitled to require—
    - (i) to undergo a preliminary drug test under section 39M(1) or (3); or
    - (ii) to provide a specimen of blood under section 39P(1), (2) or (3); and
  - (b) it appears to the police officer that—
    - (i) (if it is a person referred to in paragraph (a)(i)) he or she may be incapable of undergoing a preliminary drug test and of giving a valid consent to the taking of a specimen of blood, and (if it is a person referred to in paragraph (a)(ii)) he or she may be incapable of giving a valid consent to the taking of a specimen of blood; and
    - (ii) the incapacity is attributable to medical reasons.
- (2) It is lawful for a medical practitioner to whom a request is made under subsection (1), if the medical practitioner thinks fit—
  - (a) to take a specimen of blood from the person; and
  - (b) to provide the specimen to the police officer who made the request.
- (3) A specimen of blood may be taken pursuant to a request under subsection (1) only at a breath test centre, a police station or a hospital.
- (4) If a specimen of blood is taken pursuant to a request under this section, it must not be subjected to a laboratory

test unless the person from whom it was taken—

- (a) has been informed that it was taken;
  - (b) has been required by a police officer to give consent to the analysis of the specimen for the purpose of evidence in the relevant investigation; and
  - (c) has given that consent.
- (5) A police officer who makes a requirement referred to in subsection (4)(b) must warn the person at the time of making the requirement that a failure to give consent may render him or her liable to prosecution.
- (6) Evidence that a specimen of blood was taken from a person referred to in subsection (1) by a medical practitioner may be given by the production of a document certifying that fact and purporting to be signed by the medical practitioner.
- (7) Evidence that a specimen of blood taken from a person under this section was subjected to a laboratory test only after the person from whom it was taken was informed that it was taken and he or she consented to the laboratory test may be given by the production of a document certifying that fact and purporting to be signed by the police officer who made the requirement referred to in subsection (4)(b).

(Added 24 of 2011 s. 14)

Section:	39R	<b>Evidence of analysis of specimens</b>	E.R. 2 of 2012	02/08/2012
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- (1) A specimen of blood or urine taken under section 39P or 39Q may also be used for a laboratory test for alcohol (in addition to a test for any drug) in connection with an alleged offence under section 39J, 39K or 39L.
- (2) Evidence of the concentration of a drug, or the concentration of a drug and the proportion of alcohol, in a specimen of blood or urine taken under section 39P or 39Q may be given by the production of a document purporting to be a certificate under section 25 of the Evidence Ordinance (Cap 8) as to the concentration of the drug, or the concentration of the drug and the proportion of alcohol, in the specimen of blood or urine identified in the certificate.
- (3) Evidence of the presence of a drug, or the presence of a drug and the proportion of alcohol, in a specimen of blood or urine taken under section 39P or 39Q may be given by the production of a document purporting to be a certificate under section 25 of the Evidence Ordinance (Cap 8) as to the presence of the drug, or the presence of the drug and the proportion of alcohol, in the specimen of blood or urine identified in the certificate.
- (4) Evidence of the concentration of a drug, or the concentration of a drug and the proportion of alcohol, in a specimen of blood or urine provided by the accused person is evidence that the concentration of the drug, or the concentration of the drug and the proportion of alcohol, in the blood or urine of the accused person at the time of the alleged offence was not less than that in the specimen.
- (5) Evidence of the presence of a drug, or the presence of a drug and the proportion of alcohol, in a specimen of blood or urine provided by the accused person is evidence of the presence of the drug, or the presence of the drug and the proportion of alcohol, in the blood or urine of the accused person at the time of the alleged offence.
- (6) If at the time a specimen of blood or urine was provided by an accused person under section 39P, he or she asked to be provided with a part of the specimen of blood or urine or a part of each specimen (if both blood and urine specimens are provided by the accused person), evidence of the concentration of or the presence of a drug, or the concentration of or the presence of a drug and the proportion of alcohol, found in the specimen is not admissible on behalf of the prosecution unless—
  - (a) the specimen in which the drug or the drug and alcohol was found is one of 2 parts into which the specimen provided by the accused person was divided at the time it was provided; and
  - (b) the other part was supplied to the accused person.
- (7) If an accused person from whom a specimen of blood was taken under section 39Q, at the time he or she consented to its analysis, asked to be provided with a part of that specimen, evidence of the concentration of or the presence of a drug, or the concentration of or the presence of a drug and the proportion of alcohol, found in the specimen is not admissible on behalf of the prosecution unless—
  - (a) the specimen in which the drug or the drug and alcohol was found is one of 2 parts into which the specimen taken from the accused person was divided at the time it was taken; and
  - (b) the other part was supplied to the accused person.

(Added 24 of 2011 s. 14)

Section:	39S	<b>Failure to provide specimen of blood or urine</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who, without reasonable excuse, fails to provide a specimen of blood or urine when required to do so under section 39P or fails to give consent under section 39Q(4)(b) commits an offence and is liable—
  - (a) on conviction on indictment, to a fine at level 4 and to imprisonment for 3 years; and
  - (b) on summary conviction—
    - (i) on a first offence under this subsection, to a fine at level 3 and to imprisonment for 6 months;
    - (ii) subsequent to a conviction on indictment under this subsection, to a fine at level 4 and to imprisonment for 12 months;
    - (iii) subsequent to a summary conviction under this subsection, to a fine at level 4 and to imprisonment for 12 months; or
    - (iv) subsequent to a conviction under section 39J, 39K, 39L or 39O(1), to a fine at level 4 and to imprisonment for 12 months.
- (2) Without limiting subsection (1), a person fails to provide a specimen of blood or urine for analysis or laboratory test unless the specimen—
  - (a) is sufficient to enable the analysis or laboratory test to be carried out; and
  - (b) is provided in a way to enable the objective of the analysis or laboratory test to be satisfactorily achieved.
- (3) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate must order that the person be disqualified in accordance with subsection (4) or (5) unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.
- (4) Subject to subsection (5), the period for which the person is to be disqualified—
  - (a) for a first conviction, is a period of not less than 5 years; and
  - (b) for a subsequent conviction, is a period of not less than 10 years.
- (5) If the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), the person is to be disqualified—
  - (a) for a first conviction, for a period of not less than 5 years, or until the person has attended and completed the course at his or her own cost, whichever is the later; and
  - (b) for a subsequent conviction, for a period of not less than 10 years, or until the person has attended and completed the course at his or her own cost, whichever is the later.
- (6) For the purposes of subsection (3), a person to whom subsection (5) applies is disqualified for a shorter period if the period for which he or she is disqualified—
  - (a) for a first conviction, is a period of less than 5 years, or until he or she has attended and completed the driving improvement course at his or her own cost, whichever is the later; and
  - (b) for a subsequent conviction, is a period of less than 10 years, or until he or she has attended and completed the driving improvement course at his or her own cost, whichever is the later.
- (7) The court or magistrate may deal with the offence as a first offence, or the conviction of an offence as a first conviction, if, as at the date on which the offence was committed, at least 5 years have passed since the person's last conviction under subsection (1) or section 39J, 39K, 39L or 39O(1).
- (8) In this section—

**first conviction** (首次定罪) means a conviction on a first offence under subsection (1) (whether a conviction on indictment or a summary conviction);

**subsequent conviction** (再次定罪) means—

- (a) a conviction subsequent to a first conviction; or
- (b) a conviction referred to in subsection (1)(b)(ii), (iii) or (iv).

(Added 24 of 2011 s. 14)

Section:	39T	<b>Tests to be included in Impairment Test, approval of instruments for preliminary drug tests, etc.</b>	E.R. 2 of 2012	02/08/2012
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- (1) 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.

- (2) The Commissioner of Police may, by notice published in the Gazette, approve types of instruments as approved instruments for carrying out a Rapid Oral Fluid Test.
- (3) The Commissioner of Police may authorize in writing members of the police force as authorized police officers to carry out preliminary drug tests.
- (4) Only an instrument approved under subsection (2) may be used for carrying out a Rapid Oral Fluid Test, and more than one such instrument may be used when carrying out a Rapid Oral Fluid Test on a person.
- (5) Only an authorized police officer may carry out a preliminary drug test.

(Added 24 of 2011 s. 14)

Section:	39U	<b>Surrender of licence for 24 hours</b>	E.R. 2 of 2012	02/08/2012
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- (1) A police officer may require a person to surrender his or her licence for driving to the Commissioner of Police for 24 hours if—
  - (a) the police officer has reasonable cause to suspect that the person has committed a relevant offence;
  - (b) the result of a breath analysis carried out under section 39C indicates that the proportion of alcohol in his or her breath has exceeded the prescribed limit;
  - (c) the result of an Impairment Test carried out under section 39M indicates, in the opinion of the police officer who carried out the test, that his or her ability to drive properly is for the time being impaired; or
  - (d) the result of a Rapid Oral Fluid Test carried out under section 39M or 39N indicates the presence of any concentration of a specified illicit drug in his or her oral fluid.
- (2) In each case referred to in subsection (1), the period of 24 hours begins at the time the requirement is made.
- (3) A person who, without reasonable excuse, fails to surrender his or her licence for driving when required to do so by a police officer commits an offence and is liable on—
  - (a) a first conviction to a fine of \$1000; and
  - (b) a subsequent conviction to a fine at level 1.
- (4) A person who has been required to surrender, or has surrendered, a licence for driving under subsection (1), must not drive or attempt to drive, or be in charge of, a motor vehicle of any class on any road during the 24-hour period for which the licence for driving was required to be surrendered, whether or not he or she holds any other licence for driving referred to in subsection (7).
- (5) A person who contravenes subsection (4) commits an offence and is liable to a fine at level 3 and to imprisonment for 12 months.
- (6) If a court or magistrate convicts a person of an offence under subsection (5), the court or magistrate must order that the person be disqualified—
  - (a) for a first conviction, for a period of not less than 12 months; and
  - (b) for a subsequent conviction under that subsection, for a period of not less than 3 years, unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified.
- (7) In this section—

**licence for driving** (車牌) means—

- (a) a driving licence;
- (b) an international driving permit;
- (c) a domestic driving licence; or
- (d) a domestic driving permit;

**relevant offence** (相關罪行) means—

- (a) an offence under section 39B(6);
- (b) an offence under section 39C(15) (other than a failure to give consent under section 39C(11D)(b));
- (c) an offence under section 39O(1); or
- (d) an offence under section 39S(1) (other than a failure to give consent under section 39Q(4)(b)).

(Added 24 of 2011 s. 14)

Section:	40	<b>Speed limit</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to subsections (2), (5) and (5A), the maximum speed at which a vehicle may be driven on any road shall be 50 km an hour. (Amended 6 of 2012 s. 5)

- (2) The Commissioner may by notice in the Gazette-
  - (a) vary the speed limit specified in subsection (1) for any road specified in the notice, either generally or during the periods specified in the notice;
  - (b) declare that any road specified in the notice is liable to be subject at different times to different speed limits;
  - (c) in respect of any portion of a road, exempt vehicles of the North-west Railway from the speed limit prescribed under subsection (1) and prescribe a different speed limit at which a vehicle of the North-west Railway may be driven on that portion of the road and different limits may be prescribed in respect of different portions of a road. (Added 46 of 1987 s. 5)
- (3) Where the speed limit on any road is varied under subsection (2)(a) the Commissioner shall cause traffic signs to be so erected, replaced, removed or altered as to ensure that adequate guidance is given to drivers of motor vehicles as to what speed limit is currently to be observed on that road.
- (4) Where a notice is published under subsection (2)(b) declaring any road to be subject at different times to different speed limits-
  - (a) the different speed limits which may be brought into effect on the road shall be specified in the notice; and
  - (b) any change in the speed limit in accordance with the notice may be put into effect from time to time by the Commissioner causing traffic signs to be so erected, replaced, removed or altered as to ensure that adequate guidance is given to drivers of motor vehicles as to what speed limit is currently to be observed on that road.
- (5) Where a variation in the speed limit is in effect under this section and permits a vehicle to travel on any road in excess of 70 km an hour, the maximum speed at which a-
  - (a) medium goods vehicle;
  - (b) heavy goods vehicle;
  - (c) bus;
  - (d) motor cycle, motor tricycle, private car or light goods vehicle driven by a person who is authorized to drive it by a probationary driving licence, (Replaced 23 of 2008 s. 12)
 shall travel on such road shall be 70 km an hour. (Amended 49 of 2000 s. 2)
- (5A) If a variation in the speed limit is in effect under this section and permits a vehicle to travel on any road at a speed in excess of 80 km an hour, the maximum speed at which a public light bus may travel on that road is 80 km an hour. (Added 6 of 2012 s. 5)
- (6) Where the Commissioner prescribes a different speed limit for vehicles of the North-west Railway in respect of a portion of road under subsection (2)(c), the Commissioner may cause traffic signs to be so erected, replaced, removed or altered as to give adequate guidance or notice to drivers of vehicles of the North-west Railway of the application of that speed limit to that portion of road. (Added 46 of 1987 s. 5)
- (7) (Repealed 23 of 2008 s. 12)

Section:	41	<b>Driving in excess of speed limit</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who drives a vehicle on a road at a speed exceeding- (Amended 80 of 1988 s. 9)
  - (a) 50 km an hour or such other speed limit as may be in force on that road under section 40; (Amended 6 of 2012 s. 6)
  - (b) 70 km an hour as provided for in section 40(5); or (Amended 6 of 2012 s. 6)
  - (c) 80 km an hour as provided for in section 40(5A), (Added 6 of 2012 s. 6)
 commits an offence and is liable to a fine of \$4000.
- (2) (Repealed 43 of 1986 s. 2)
- (3) If-
  - (a) a court or magistrate convicts a person of an offence under subsection (1); and
  - (b) it is proved or admitted that, at the time of the offence, the person was driving the vehicle at a speed exceeding the relevant speed limit as described in that subsection by more than 45 km an hour,
 the court or magistrate shall order that the person be disqualified in accordance with subsection (4) unless the court or magistrate for special reasons orders that he be disqualified for a shorter period or that he not be disqualified. (Added 50 of 2000 s. 3. Amended 23 of 2008 s. 13)
- (4) The person is to be disqualified-
  - (a) subject to paragraph (b), for a period of not less than 6 months; or
  - (b) if the court or magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), for a period of not less than 6 months, or until the person has attended and completed the

course at his own cost, whichever is the later. (Added 23 of 2008 s. 13)

- (5) For the purposes of subsection (3), a person to whom subsection (4)(b) applies is disqualified for a shorter period if he is disqualified for a period of less than 6 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later. (Added 23 of 2008 s. 13)

Section:	42	<b>Driving without a licence, etc.</b>	E.R. 2 of 2012	02/08/2012
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- (1) Except as otherwise provided by this Ordinance, no person shall drive a motor vehicle on a road unless he is the holder of a driving licence in respect of a vehicle of the class of vehicle which he is driving.
- (2) Except as otherwise provided by this Ordinance, no person shall drive a motor vehicle on a road unless he has with him at the time he is driving his driving licence or a document issued by the Commissioner indicating that that person has applied for the renewal or a duplicate of his driving licence.
- (3) Except as otherwise provided by this Ordinance, no person shall suffer or permit a motor vehicle to be driven by a person who is not the holder of a driving licence of the class to which such vehicle belongs: (Amended 66 of 1987 s. 2)  
 Provided that in any proceedings under this subsection it shall not be necessary to allege or to prove that the person charged knew that the driver was not the holder of a driving licence and it shall be no defence to prove that the person charged did not know that the driver was not the holder of a driving licence. (Amended 66 of 1987 s. 2)
- (4) Any person who contravenes subsection (1) or (3) commits an offence and is liable, in the case of a first conviction to a fine of \$5000 and to imprisonment for 3 months, and in the case of a second or subsequent conviction or of a conviction subsequent to a conviction under section 5(4) or (5) of the repealed Ordinance to a fine of \$10000 and to imprisonment for 6 months.
- (5) Any person who without lawful authority or reasonable excuse contravenes subsection (2) commits an offence and is liable, in the case of a first conviction to a fine of \$1000, and in the case of a second or subsequent conviction or of a conviction subsequent to a conviction under section 5(4A) of the repealed Ordinance to a fine of \$2000.

Section:	43	<b>Enforcement powers of a police officer or the Commissioner</b>	E.R. 2 of 2012	02/08/2012
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- (1) A police officer or the Commissioner may require the production for examination of the driving licence of any person-
- (a) who is driving a motor vehicle on a road; or
  - (b) whom he reasonably suspects to have been the driver of a motor vehicle involved in an accident on a road; or
  - (c) whom he reasonably suspects to have committed an offence under this Ordinance or to have contravened the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237); or
  - (d) whom he has reasonable cause to believe has knowingly made a false statement for the purposes of obtaining the grant of the driving licence.
- (2) If any condition of a driving licence requires the holder of that licence while driving or learning to drive a motor vehicle to be under the supervision of or to be accompanied by the holder of a driving licence, a police officer or the Commissioner may in the case of a motor vehicle being driven by the holder of such a driving licence as is first mentioned also require any accompanying person to produce his driving licence for examination.
- (3) Any person who, upon being required to produce his driving licence under subsection (1)(a), fails to produce-
- (a) his driving licence; or
  - (b) a document issued by the Commissioner indicating that that person has applied for the renewal or a duplicate of his driving licence,
- commits an offence and is liable to a fine of \$1000 and to imprisonment for 3 months.
- (4) Any person who, upon being required to produce his driving licence under subsection (1), fails to produce his driving licence or a document issued by the Commissioner indicating that that person has applied for the renewal or a duplicate of his driving licence and who further fails to bring either his driving licence or any such document, in person, within 72 hours of such requirement being made, to a police officer at such police station or other official address as is specified at the time commits an offence and is liable to a fine of \$2000 and to imprisonment for 3 months. (Amended 66 of 1984 s. 5)



- (5) This section applies to a domestic driving permit, domestic driving licence and international driving licence as it applies to a driving licence.

Section:	44	<b>Offence of obtaining licence, or driving, while disqualified</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person disqualified from holding or obtaining a driving licence who-
- (a) obtains a driving licence while he is disqualified; or
  - (b) while he is disqualified drives on a road a motor vehicle or, if the disqualification is limited to the driving of a motor vehicle of a particular class, a motor vehicle of that class, commits an offence and is liable to a fine of \$10000 and to imprisonment for 12 months.
- (2) If a court or magistrate convicts a person of an offence under subsection (1), the court or magistrate shall order that the person be disqualified-
- (a) in the case of a first conviction, for a period of not less than 12 months; and
  - (b) in the case of a second or subsequent conviction, or a conviction subsequent to a conviction under section 25 of the repealed Ordinance, for a period of not less than 3 years, unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified. (Replaced 23 of 2008 s. 14)
- (3) The period of any disqualification under subsection (2) shall be in addition to any other period of disqualification ordered under any other provision of this Ordinance.
- (4) The provisions of subsection (1) shall apply notwithstanding that the person disqualified holds a valid international driving permit, driving licence issued in a place outside Hong Kong for use in that place, government driving permit or military driving permit. (Amended 23 of 1998 s. 2)

[cf. 1972 c. 20 s. 99 U.K.]

Section:	45	<b>Reckless cycling</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who uses or rides a bicycle, tricycle or multi-cycle on a road recklessly commits an offence and is liable in the case of a first conviction to a fine of \$500 and in the case of a second or subsequent conviction to a fine of \$1000 and to imprisonment for 3 months. (Amended 89 of 1994 s. 17)
- (2) On the trial of any person for an offence under subsection (1) he may be acquitted of that offence and be found guilty of an offence under section 46.

[cf. 1972 c. 20 s. 17 U.K.]

Section:	46	<b>Careless cycling</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who uses or rides a bicycle, tricycle or multi-cycle on a road carelessly commits an offence and is liable to a fine of \$500.
- (2) A person uses or rides carelessly within the meaning of this section if on a road he uses or rides a bicycle, tricycle or multi-cycle without due care and attention or without reasonable consideration for other persons using the road.

(Amended 89 of 1994 s. 18)

[cf. 1972 c. 20 s. 18 U.K.]

Section:	47	<b>Cycling, etc. when under the influence of drink or drugs</b>	E.R. 2 of 2012	02/08/2012
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A person who, when using or riding a bicycle, tricycle or multi-cycle, or when driving a rickshaw, on a road or in a public place, is unfit to ride or drive through drink or drugs commits an offence and is liable in the case of a first conviction to a fine of \$500, and in the case of a second or subsequent conviction or of a conviction subsequent to a conviction under section 13 of the repealed Ordinance to a fine of \$1000 and to imprisonment for 3 months.

(Amended 89 of 1994 s. 19)

[cf. 1972 c. 20 s. 19(1) U.K.]

Section:	48	<b>Offences by pedestrians</b>	E.R. 2 of 2012	02/08/2012
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A pedestrian who in using any road, or a person who by driving a rickshaw on any road, negligently endangers his own safety or that of any other person commits an offence and is liable to a fine of \$500.

Section:	49	<b>Tampering with motor vehicles</b>	E.R. 2 of 2012	02/08/2012
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If a person otherwise than with lawful authority or reasonable excuse gets on to a vehicle or tampers with any part of the vehicle, he commits an offence and is liable to a fine of \$5000 and to imprisonment for 12 months.  
[cf. 1972 c. 20 s. 29 U.K.]

Section:	50	<b>Interfering with traffic signs or road markings</b>	E.R. 2 of 2012	02/08/2012
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Any person who without the consent of the Commissioner, Commissioner of Police or Director of Highways- (Amended L.N. 127 of 1986)

- (a) moves, damages or interferes in any way with any traffic sign or prescribed traffic sign; or
  - (b) obscures, defaces, alters or obliterates any road marking or prescribed road marking,
- commits an offence and is liable to a fine of \$1000 and to imprisonment for 3 months.

Section:	51	<b>Prohibition of unauthorized signs or markings</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who other than-
  - (a) in accordance with a permit issued under this Ordinance; or
  - (b) in order to comply with any enactment or the road users' code or any code of practice under section 109, (Amended 66 of 1984 s. 6)
 places, causes or permits to be placed, in, on or near a road or on a building any traffic sign or road marking commits an offence and is liable to a fine of \$1000 and to imprisonment for 3 months.
- (2) The Commissioner may by notice in writing require any person who has placed or caused to be placed any such road marking or traffic sign to remove the same, and, if such person fails to comply with such notice, the Commissioner may cause the road marking to be obliterated or removed, or the traffic sign to be removed, as the case may be, and thereupon the road marking or traffic sign and any part thereof and every attachment thereto shall be forfeited to the Government and the Commissioner may recover from such person as a civil debt the cost of the obliteration or removal of the road marking or of the traffic sign and also the cost of any reinstatement of the road necessitated by such obliteration or removal. (Amended 3 of 2002 s. 15)

Part:	6	<b>Use, Sale and Hire of Vehicles</b>	E.R. 2 of 2012	02/08/2012
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Section:	52	<b>Restriction on the use of vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to this Ordinance, no person shall-
  - (a) drive or use a vehicle of a class specified in Schedule 1, other than a rickshaw; or
  - (b) suffer or permit such a vehicle to be driven or used,
 on a road unless the vehicle is registered and licensed in accordance with this Ordinance.
- (1A) (a) No person shall ride or otherwise use a multi-cycle except in a manner and on a road or in a place specified for the purposes of this subsection by the Commissioner.
  - (b) Where the Commissioner specifies a road or place under paragraph (a), he may also specify 1 or more traffic signs or road markings which are to be used as regards that road or place.
  - (c) Where the Commissioner exercises a power under paragraph (a) or (b), he shall as soon as may be cause to be published in the Gazette a notice giving particulars of anything specified in exercise of the power. (Added 89 of 1994 s. 20)
- (2) No person shall-
  - (a) drive or use a rickshaw; or
  - (b) suffer or permit a rickshaw to be driven or used,

- on a road unless the rickshaw is licensed in accordance with this Ordinance.
- (3) No person shall-
    - (a) drive or use a motor vehicle; or
    - (b) suffer or permit a motor vehicle to be driven or used,  
for the carriage of passengers for hire or reward unless- (Amended L.N. 100 of 1984)
      - (i) the vehicle is licensed as a public bus, public light bus or taxi;
      - (ii) the vehicle is licensed as a private bus and the passengers are students, teachers or employees of an educational institution, disabled persons, or persons employed to assist disabled persons; (Amended 50 of 1999 s. 10)
      - (iia) the vehicle is licensed as a private light bus and is used-
        - (A) as a school private light bus; or
        - (B) exclusively for the carriage of persons who are disabled persons and persons assisting them; or  
(Added 50 of 1999 s. 10)
      - (iii) a hire car permit is in force in respect of the vehicle.
  - (4) No person shall-
    - (a) drive or use a public light bus, a private bus, a school private light bus or a public bus other than one operated under a franchise granted under the Public Bus Services Ordinance (Cap 230); or (Amended 50 of 1999 s. 10)
    - (b) suffer or permit such a vehicle to be driven or used,  
for the carriage of passengers unless a passenger service licence is in force in respect of the vehicle.
  - (5) No person shall solicit or attempt to solicit any person for hire or reward to travel in any vehicle which is licensed as-
    - (a) a private car;
    - (b) a private light bus;
    - (c) a private bus;
    - (d) a light goods vehicle;
    - (e) a medium goods vehicle; or
    - (f) a heavy goods vehicle.
  - (6) No person shall permit or suffer a motor vehicle which is licensed as a private car, private light bus or private bus to stand or ply for hire or reward.
  - (7) Subject to this Ordinance, no person shall-
    - (a) drive or use a motor vehicle; or
    - (b) suffer or permit a motor vehicle to be driven or used,  
for the carriage of goods (other than personal effects) for hire or reward unless-
      - (i) the vehicle is licensed as a light goods vehicle, a medium goods vehicle or a heavy goods vehicle; or
      - (ii) in the case of a vehicle licensed as a public bus, a private bus, a public light bus or a private light bus, the Commissioner has issued a permit for such carriage of goods by the vehicle.
  - (8) No person shall without the permission in writing of the Commissioner-
    - (a) drive or use; or
    - (b) permit or suffer to be driven or used,  
a motor vehicle which is licensed as a private car for the carriage of goods the total weight of which exceeds 200 kg.
  - (9) No person shall-
    - (a) drive or use; or
    - (b) permit or suffer to be driven or used,  
a motor vehicle in contravention of any conditions subject to which the vehicle licence was issued.
  - (10) Any person who contravenes-
    - (a) this section, other than subsection (2), commits an offence and is liable in the case of a first conviction for that offence to a fine of \$5000 and to imprisonment for 3 months, and in the case of a second or subsequent conviction for that offence to a fine of \$10000 and to imprisonment for 6 months;
    - (b) subsection (2) commits an offence and is liable in the case of a first conviction for that offence to a fine of \$1000 and to imprisonment for 3 months, and in the case of a second or subsequent conviction for that offence to a fine of \$2000 and to imprisonment for 6 months.

Section:	52A	<b>Restriction on advertising vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) In this section **advertising vehicle** (廣告車輛) means a vehicle used or intended to be used predominantly for the displaying of advertising.
- (2) No person shall-
  - (a) drive or use; or
  - (b) permit or suffer to be driven or used, an advertising vehicle-
    - (i) without a permit issued by the Commissioner allowing its use for that purpose; or
    - (ii) in contravention of any of the terms or conditions attached to a permit referred to in paragraph (i).
- (3) Subject to this section, the Commissioner may, on application by the owner of a vehicle and on payment of the prescribed fee, issue a permit for the use of the vehicle as an advertising vehicle.
- (4) The Commissioner shall not issue a permit under this section unless he is satisfied that the advertising to be displayed will be displayed for a non-commercial purpose.
- (5) The Commissioner may attach such conditions to a permit issued under this section as he considers necessary, including the period for which the permit will be effective.
- (6) A person who contravenes subsection (2) commits an offence and is liable in the case of a first conviction to a fine of \$5000 and to imprisonment for 3 months, and in the case of a second or subsequent conviction to a fine of \$10000 and to imprisonment for 6 months.

(Added 58 of 1992 s. 3)

Section:	53	<b>Prohibition of sale, hire etc. of vehicles not complying with regulations</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to subsection (3), no person shall-
  - (a) sell, supply or hire;
  - (b) offer to sell, supply or hire; or
  - (c) cause or permit to be sold, supplied or hired, or offered for sale, supply or hire, a motor vehicle or trailer for delivery in such a condition-
    - (i) that the use thereof on a road would contravene any provision of this Ordinance with respect to the construction or weight of the vehicle or its equipment, or with respect to the maintenance of the vehicle or its equipment;
    - (ii) that danger is or is likely to be caused by it to any person; or
    - (iii) as respects lighting equipment or reflectors or the maintenance thereof, that it is not capable of being used on a road during the hours of darkness without contravening any provision of this Ordinance as to obligatory lamps or reflectors.
- (2) Subject to subsection (3), no person shall alter or cause or permit to be altered a motor vehicle or trailer so as to render its condition such that the use thereof on a road would contravene any provision of this Ordinance as to the construction, weight, equipment, brakes, steering gear or tyres thereof.
- (3) Any person who contravenes subsection (1) or (2) commits an offence and is liable to a fine of \$20000: Provided that it shall be a defence in proceedings for an offence under this section for the defendant to prove that he had reasonable cause to believe that the vehicle would not be used on a road in Hong Kong or would not be so used until it had been put into a condition in which it might be used without contravening any such provisions.
- (4) Nothing in this section shall affect the validity of any contract or of any right arising under a contract  
[cf. 1972 c. 20 s. 60 U.K.]

Section:	54	<b>Restriction on hire and riding of cycles</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to subsection (3), no person shall-
  - (a) hire a bicycle or tricycle to a child under 11 years of age; or
  - (b) permit a child under 11 years of age to ride a bicycle or tricycle on a road unaccompanied by an adult.
- (1A) No person shall-
  - (a) hire a multi-cycle to a child under 11 years of age; or

- (b) permit any such child to ride, otherwise than as a passenger, or to steer a multi-cycle, unless the child is accompanied by an adult. (Added 89 of 1994 s. 21)
- (2) Any person who contravenes subsection (1) or (1A) commits an offence and is liable to a fine of \$3000. (Amended 89 of 1994 s. 21)
- (3) This section shall not apply-
  - (a) in the case of subsection (1)(a), to any person who hires a bicycle or tricycle to a child under 11 years of age if the hiring takes place or occurs-
    - (i) on a road or portion of a road set aside for bicycles or tricycles and on which children under 11 years of age may, in accordance with a permission indicated by a prescribed traffic sign erected or placed there, ride such bicycles or tricycles unaccompanied by any adult; or
    - (ii) on any other land (whether a road or not) which immediately abuts or adjoins a road or portion of a road referred to in subparagraph (i) and on which the driving of all motor vehicles is prohibited; or
  - (b) in the case of subsection (1)(b), to any person who permits a child under 11 years of age to ride a bicycle or tricycle on a road or portion of a road set aside for bicycles or tricycles and on which children under 11 years of age may, in accordance with a permission indicated by a prescribed traffic sign erected or placed there, ride such bicycles or tricycles unaccompanied by any adult.

(Replaced 50 of 1989 s. 2)

Section:	55	<b>Restriction on motor racing and speed trials</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who promotes or takes part in-
  - (a) a race or trial of speed on any road between vehicles;
  - (b) any race or trial on any road between persons; or
  - (c) any other form of competition on any road involving vehicles or pedestrians, to which the Commissioner of Police has not given his consent in writing, or in contravention of any conditions imposed on the granting of such consent, commits an offence and is liable to a fine of \$10000 and to imprisonment for 12 months.
- (2) If a magistrate convicts a person of an offence under subsection (1), the magistrate shall order that the person be disqualified in accordance with subsection (2A) unless the magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified. (Replaced 23 of 2008 s. 15)
- (2A) The person is to be disqualified-
  - (a) subject to paragraph (b), for a period of 12 months; or
  - (b) if the magistrate has ordered the person to attend and complete a driving improvement course under section 72A(1A), for a period of 12 months, or until the person has attended and completed the course at his own cost, whichever is the later. (Added 23 of 2008 s. 15)
- (2B) For the purposes of subsection (2), a person to whom subsection (2A)(b) applies is disqualified for a shorter period if he is disqualified for a period of less than 12 months, or until the person has attended and completed the driving improvement course at his own cost, whichever is the later. (Added 23 of 2008 s. 15)
- (3) The Commissioner of Police may if he thinks fit consent to the promotion or holding of any such event as is described in subsection (1) subject to such conditions as he in his absolute discretion may impose.
- (4) Any person aggrieved by any decision of the Commissioner of Police under subsection (3) may appeal to the Administrative Appeals Board against such decision. (Amended 3 of 2002 s. 3)

Part:	7	<b>Accidents</b>	E.R. 2 of 2012	02/08/2012
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Section:	56	<b>Duty to stop in case of accidents</b>	E.R. 2 of 2012	02/08/2012
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- (1) Where, owing to the presence of a vehicle on a road, an accident occurs whereby-
  - (a) personal injury is caused to a person other than the driver of that vehicle; or
  - (b) damage is caused to-
    - (i) a vehicle other than that vehicle or a trailer drawn thereby;
    - (ii) an animal other than an animal in or on that vehicle or a trailer drawn thereby; or
    - (iii) any other thing not being in or on that vehicle or a trailer drawn thereby,
 the driver of that vehicle shall stop.

- (2) In the case of any such accident, the driver of the vehicle shall, if required, give to any police officer or to any person having reasonable grounds for so requiring the following particulars-
- (a) his name and address;
  - (b) the name and address of the owner of the vehicle; and
  - (c) the registration or identification mark or number of the vehicle. [cf. 1972 c. 20 s. 25(2) U.K.]
- (2A) If, in the case of an accident referred to in subsection (1)(b), the driver of the vehicle for any reason does not give the particulars mentioned in subsection (2), he shall report the accident in person at the nearest police station or to any police officer as soon as reasonably practicable, and in any case not later than 24 hours after the accident. (Added 66 of 1984 s. 7)
- (3) If the accident involves injury to any person including the driver, the driver shall report the accident in person at the nearest police station or to any police officer as soon as reasonably practicable, and in any case not later than 24 hours after the accident, unless the driver is incapable of doing so by reason of injuries sustained by him in the accident. [cf. 1972 c. 20 s. 25(3) U.K.]
- (4) In this section **animal**(動物) means any horse, cattle, ass, mule, sheep, pig or goat. [cf. 1972 c. 20 s. 25(4) U.K.]
- (5) A person who contravenes subsection (1) commits an offence and is liable to a fine of \$10000 and to imprisonment for 12 months.
- (6) A person who contravenes subsection (2), (2A) or (3) or who knowingly makes a false statement in supplying particulars under subsection (2) commits an offence and is liable to a fine of \$15000 and to imprisonment for 6 months.

(Amended 66 of 1984 s. 8)

Section:	57	<b>Preservation of evidence of serious accidents</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to subsection (2), if owing to the presence of a vehicle on a road an accident occurs in consequence of which any person is killed or seriously injured or serious damage is caused to any vehicle or thing, any person who without the authority of a police officer moves or otherwise interferes with any vehicle involved in the accident or any part of any such vehicle or does any other act which destroys, alters or conceals any evidence of the accident commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.
- (2) In any proceedings against a person in respect of the moving of or interference with a vehicle in contravention of subsection (1), it shall be a defence for the person charged to prove that the vehicle was moved or interfered with for the purpose of saving life, extinguishing fire or meeting any other emergency.

Part:	8	<b>Enforcement</b>	E.R. 2 of 2012	02/08/2012
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Section:	58	<b>Appointment of traffic wardens</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner of Police may appoint such persons as he thinks fit to be traffic wardens or senior traffic wardens.
- (2) Traffic wardens shall discharge, in aid of the Hong Kong Police Force, the following functions- (Amended L.N. 362 of 1997)
- (a) the enforcement of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237);
  - (b) the control and regulation of vehicular traffic and pedestrians, whether on a road or not, and any functions incidental to, or connected with, the control and regulation of such traffic or pedestrians, which are normally undertaken by the Police Force; and
  - (c) any other functions which may be conferred on them by or under this or any other Ordinance.
- (2A) For the purposes of discharging his functions under subsection (2), a traffic warden may require any person whom he reasonably suspects of having committed an offence under this Ordinance to give his name and address. (Added 39 of 1995 s. 8)
- (3) Subject to subsection (4), for the purposes of discharging his functions under subsection (2), a traffic warden shall have all the powers and duties of a police officer.
- (4) Notwithstanding subsection (3), a traffic warden shall not have power-
- (a) to arrest or detain a person; or

- (b) to search a person.
- (5) Traffic wardens shall be subject to the orders and directions of the Commissioner of Police.
- (6) A traffic warden shall obey all lawful orders given to him by a police officer of or above the rank of sergeant.

Section:	59	<b>Provisions applicable to traffic wardens</b>	E.R. 2 of 2012	02/08/2012
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- (1) A traffic warden shall be deemed to be always on duty when required to act as such and shall discharge his functions as such in any and every place in Hong Kong where he may be doing duty.
- (2) An identity card shall be issued to every traffic warden and shall be evidence of his appointment.
- (3) A traffic warden whilst on duty shall wear the uniform of a traffic warden.
- (4) Any person who is not a traffic warden and who-
- (a) wears, without the permission of the Commissioner of Police, the uniform of a traffic warden or any dress having the appearance, or bearing any of the distinctive marks, of that uniform;
- (b) has in his possession, without the permission of the Commissioner of Police, an identity card issued to a traffic warden under subsection (2),
- commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.
- (5) Any person who ceases to be a traffic warden, whether in consequence of resignation or dismissal or otherwise, shall thereupon deliver up his uniform and his identity card and any other Government property which may be in his possession.
- (6) (Repealed 39 of 1995 s. 9)

Section:	60	<b>Power of police to stop vehicles</b>	E.R. 2 of 2012	02/08/2012
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A person driving a motor vehicle or rickshaw on a road and a person riding a bicycle or tricycle on a road shall stop the same on being so required by a police officer in uniform, or traffic warden in uniform, and any person who fails to do so commits an offence and is liable to a fine of \$2000.

[cf. 1972 c. 20 s. 159 U.K.]

Section:	61	<b>Penalty for neglect of traffic directions</b>	E.R. 2 of 2012	02/08/2012
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Where a police officer in uniform or a traffic warden in uniform is for the time being engaged in the regulation of traffic on a road, any person driving any vehicle and any pedestrian who neglects or refuses to obey any direction of the police officer or traffic warden commits an offence and is liable to a fine of \$2000.

Section:	61A	<b>Drivers of vehicles of the North-west Railway to obey police directions in emergency</b>	E.R. 2 of 2012	02/08/2012
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- (1) Where there is an emergency on or in the vicinity of the carriageway of the North-west Railway, a police officer in uniform may give directions to the driver of any vehicle of the North-west Railway for the purpose of saving or protecting any life or property in imminent danger or clearing any obstruction to the North-west Railway and any such driver shall obey the directions.
- (2) Any driver of a vehicle of the North-west Railway who fails to obey a direction of a police officer given under subsection (1) commits an offence and is liable to a fine of \$2000.

(Added 46 of 1987 s. 6)

Section:	62	<b>Penalty for obstruction</b>	E.R. 2 of 2012	02/08/2012
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Without prejudice to any other provisions of this Ordinance, any person who obstructs any police officer or traffic warden or the Commissioner in the exercise of any power conferred under this Ordinance commits an offence and is liable to a fine of \$2000 and to imprisonment for 3 months.

Section:	63	<b>Obligation to give certain information</b>	E.R. 2 of 2012	02/08/2012
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- (1) Where the driver of a vehicle is suspected of having committed an offence under this Ordinance or, where owing

to the presence of a vehicle on a road an accident occurs, any person, including both the registered owner and the person suspected of being the driver of the vehicle, shall on demand made within 6 months after the date of the alleged offence or accident give to a police officer in the manner prescribed in this section the name, address and driving licence number-

- (a) in the case of an alleged offence, of the driver of the vehicle at the time of the alleged offence;
  - (b) in the case of an accident, of the driver of the vehicle at the time of the accident or of the last driver of the vehicle prior to the accident, and his relationship, if any, to any such driver. (Replaced 66 of 1984 s. 8)
- (2) A demand under subsection (1) may be made orally or by means of a notice served personally or by post on the person on whom it is made.
- (3) Where a demand under subsection (1) is made orally to any person he shall-
- (a) if he was the driver of the vehicle at the time of the alleged offence or accident, or was the last driver of the vehicle prior to the accident-
    - (i) give immediately his name and address; and
    - (ii) give the number of his driving licence to a specified police officer within 21 days after the date of the demand; and
  - (b) if he was not the driver of the vehicle at the time of alleged offence or accident, or was not the last driver of the vehicle prior to the accident, give the information required under subsection (1) to a specified police officer either orally or in writing within 21 days after the date of the demand. (Amended 66 of 1984 s. 8)
- (4) A notice served under subsection (2) shall require the person to whom it is addressed-
- (a) to furnish, within 21 days after the date of the notice, to a police officer specified therein, a written statement, in such form as may be specified in the notice, giving the name, address and driving licence number-
    - (i) in the case of an alleged offence, of the driver of the vehicle at the time of the alleged offence;
    - (ii) in the case of an accident, of the driver of the vehicle at the time of the accident or of the last driver of the vehicle prior to the accident, and his relationship, if any, to any such driver; and (Replaced 66 of 1984 s. 8)
  - (b) to sign the said statement.
- (5) In proceedings for an offence under subsection (6)(a), it shall be a defence for the defendant to show that he did not know, and could not with reasonable diligence have ascertained, the name or address or driving licence number of the driver of the vehicle at the time of the alleged offence or accident or of the last driver of the vehicle prior to the accident, as the case may be. (Amended 66 of 1984 s. 8)
- (6) Subject to subsection (5), any person who-
- (a) contravenes subsection (1); or
  - (b) knowingly makes a false statement in supplying particulars required under subsection (1), commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months.
- (7) Where a person is convicted of an offence under subsection (6) and the offence of which he is convicted is an offence in connection with the giving to a police officer of the name, address and driving licence number of the driver of a vehicle at the time of an alleged offence, the court before whom that person is convicted shall have regard to the facts of the alleged offence in considering-
- (a) the amount of any fine, or period of imprisonment, to impose; and
  - (b) the period, if any, for which to order such person to be disqualified, for the offence under subsection (6).
- (8) In this section **alleged offence** (被指控罪行) means the suspected offence referred to in subsection (1).

Section:	64	<b>Proof in summary proceedings of identity of driver</b>	E.R. 2 of 2012	02/08/2012
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If, in any summary proceedings for an offence under this Ordinance, there is produced to the court a statement which-

- (a) purports to have been signed by the defendant;
- (b) was furnished in accordance with a notice served on him under section 63(2); and
- (c) states that the defendant was the driver of the vehicle at the time of the offence,

the court shall admit the statement as prima facie evidence that the defendant was the driver of the vehicle at the time of the offence.



Section:	65	<b>Provision of weigh-bridges and weighing of motor vehicles etc.</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner and the Commissioner of Police may maintain and operate weigh-bridges or other machines for weighing vehicles. [cf. 1972 c. 20 s. 200(1) U.K.]
- (2) Subject to the provisions of any other enactment, any police officer in uniform or the Commissioner may require the person in charge of any motor vehicle to allow the motor vehicle or any trailer drawn thereby to be weighed, either laden or unladen, and the weight transmitted to the road by any part of the motor vehicle or trailer in contact with the road to be tested, and for that purpose to proceed with the vehicle and such trailer (if any) to a weigh-bridge or other machine for weighing vehicles.
- (3) Where a motor vehicle or trailer is weighed under this section and the weight is found to be within the limits authorized by law, a certificate of weight shall be given to the person in charge of the motor vehicle and the certificate so given shall exempt the motor vehicle and the trailer, if any, from being weighed so long as it is during the continuance of the same journey carrying the same load.
- (4) Any person in charge of a motor vehicle who fails to comply with any requirement under subsection (2) commits an offence and is liable in the case of a first conviction therefor to a fine of \$5000 and to imprisonment for 3 months and in the case of a second or subsequent conviction to a fine of \$10000 and to imprisonment for 6 months.

Section:	66	<b>Power to test for excessive smoke</b>	E.R. 2 of 2012	02/08/2012
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- (1) A police officer in uniform of the rank of sergeant or above who has reason to believe that an offence relating to the emission of smoke or visible vapour is being or has been committed in respect of a motor vehicle which is on a road or in any public place may stop and examine the vehicle, and may measure or cause to be measured by means of prescribed apparatus the emission of smoke or visible vapour from the vehicle.
- (2) A police officer of the rank of sergeant or above who has reason to believe that an offence against this Ordinance relating to the emission of smoke or visible vapour has been committed within the preceding 14 days may by notice in writing served personally or by post on the owner of the vehicle require production of the vehicle at such vehicle examination centre or police station on such date and at such time as may be specified in the notice for the purpose of-
  - (a) measurement of the emission of smoke or visible vapour by means of prescribed apparatus; or
  - (b) examination of the vehicle to ascertain whether its condition remains such that its use results in the commission of an offence against this Ordinance relating to the emission of smoke or visible vapour.
- (3) An owner served with a notice under subsection (2) who fails without reasonable excuse to produce the vehicle on the date and at the time and place specified in the notice commits an offence and is liable on conviction to a fine of \$2000.

Section:	67	<b>Power to seize document, vehicle licence or registration mark</b>	E.R. 2 of 2012	02/08/2012
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- (1) If a police officer has reasonable cause to believe that a document produced to him pursuant to the provisions of this Ordinance or any requirement made thereunder is a document in relation to which an offence has been committed under section 111, he may seize the document; and when a document is seized under this subsection, the person from whom it is taken shall, unless the document has been previously returned to him or he has been previously charged with an offence under section 111, be summoned before a court or magistrate to account for his possession of the said document and the court or magistrate shall make such order regarding the disposal of the document and award such costs as the justice of the case may require. [cf. 1972 c. 20 s. 173(1) U.K.]
- (2) If a police officer has reasonable cause to believe that a document, vehicle licence or registration mark carried on a motor vehicle or by the driver thereof is a document, vehicle licence or registration mark in relation to which an offence has been committed under section 111, he may seize the document, vehicle licence or registration mark and when a document, vehicle licence or registration mark is seized under this subsection either the driver or the owner of the vehicle shall, if the document, vehicle licence or registration mark is still detained and neither of them has previously been charged with an offence in relation thereto under this Ordinance, be summoned before a court or magistrate to account for his possession of, or the presence on the vehicle of, the said document, vehicle licence or registration mark and the court or magistrate shall make such order respecting

the disposal of the said document, vehicle licence or registration mark and award such costs as the justice of the case may require. [cf. 1972 c. 20 s. 173(2) U.K.]

- (3) For the purposes of this section the power to seize includes power to detach from a vehicle. [cf. 1972 c. 20 s. 173(2) U.K.]

Section:	67A	<b>Power to retrieve electronic data</b>	E.R. 2 of 2012	02/08/2012
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(1) In this section—

**fitted EDRD** (已裝配電子數據記錄儀) has the meaning given to it by regulation 2 of the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap 374 sub. leg. A).

(2) This section applies to a motor vehicle with a fitted EDRD.

(3) The Commissioner may cause any data stored in the fitted EDRD to be retrieved by a vehicle examiner during any examination of a motor vehicle carried out under section 78 or, under an examination order served or caused to be served by the Commissioner, under section 79.

(4) If a police officer has reasonable cause to believe that a motor vehicle has been involved in an accident or any offence under this Ordinance, the police officer may—

(a) if there is a driver or any other person inside the vehicle—

(i) direct the driver to drive it to the vehicle examination centre or police station specified by the police officer; or

(ii) direct the driver and any other person to leave the vehicle and himself or herself drive or remove the vehicle or cause it to be driven or removed to any vehicle examination centre or police station; or

(b) if there is no person inside the vehicle, drive or remove the vehicle or cause it to be driven or removed to any vehicle examination centre or police station.

(5) The police officer referred to in subsection (4) may—

(a) cause the vehicle to be detained at a vehicle examination centre or police station for not more than 72 hours; and

(b) during the detention, cause any data stored in the fitted EDRD to be retrieved by a vehicle examiner or any person authorized by the Commissioner of Police.

(6) In any criminal proceedings, a document purporting to be a record of the data retrieved under subsection (5)(b) is admissible as evidence of the matters appearing from the record without further proof.

(7) Any person who without reasonable excuse fails to comply with any direction of a police officer under subsection (4)(a) commits an offence and is liable to a fine at level 2.

(Added 6 of 2012 s. 7)

Section:	68	<b>Notice of intention to prosecute for certain offences</b>	E.R. 2 of 2012	02/08/2012
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(1) Subject to subsection (2), a person prosecuted for an offence under section 36, 36A, 37, 38 or 41 (which relate respectively to causing death by dangerous driving, causing grievous bodily harm by dangerous driving, dangerous driving, careless driving and driving in excess of the speed limit) shall not be convicted of such offence unless- (Amended 33 of 2000 s. 5; 19 of 2010 s. 17)

(a) he was warned at the time of the commission of the offence or within 24 hours thereafter that the question of prosecuting him under some one or other of the provisions aforesaid would be taken into consideration; or

(b) within 14 days of the commission of the offence, either he was charged before a magistrate or a summons in respect thereof was served on him; or

(c) within 14 days, excluding public holidays, of the commission of the offence, a notice of the intended prosecution specifying the nature of the alleged offence and the time and place where it is alleged to have been committed was served on him, or sent by registered post to him, or served on or sent by registered post to the person in whose name the vehicle was registered at the time of the commission of the offence; or

(d) in the case of an offence under section 41, he was served with a notice under section 3(3) of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240) and has failed to comply therewith.

(2) Subsection (1) shall not apply if it appears to the court or magistrate that-

(a) the person prosecuted was not prejudiced in his defence by a failure to comply with that subsection; or

(b) the person prosecuted by his own conduct contributed to the failure to comply with that subsection.

- (3) The requirements of subsection (1) shall in every case be presumed to have been complied with unless and until the contrary is proved.

Section:	69	<b>Disqualification on conviction of certain offences</b>	E.R. 2 of 2012	02/08/2012
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- (1) Without prejudice to any other provision relating to the penalty that may be, or is required to be, imposed for an offence, a court or magistrate before which a person is convicted of any of the following offences may order him to be disqualified for such period as the court or magistrate thinks fit- (Amended 23 of 2008 s. 16)
- (a) any offence under this Ordinance in connection with the driving of a motor vehicle; (Amended 43 of 1986 s. 3)
  - (b) an offence under section 63(6);
  - (c) stealing a motor vehicle;
  - (d) an offence under section 14(1) of the Theft Ordinance (Cap 210) in respect of a motor vehicle;
  - (e) an offence under section 27 of the Theft Ordinance (Cap 210) committed with reference to the theft or taking of motor vehicles;
  - (f) a contravention of any of the following provisions of the Road Traffic (Public Service Vehicles) Regulations (Cap 374 sub. leg. D), namely regulation 37(a), (b), (c) and (d) (relating to the obligations of taxi drivers) and regulation 47 (relating to prescribed taxi fares); (Replaced 66 of 1984 s. 9)
  - (g) any offence under any regulation made under section 9 of using or causing or permitting the use on a road of any motor vehicle or trailer in contravention of any provision or requirement of any such regulation as to brakes, tyres or steering gear, except where the convicted person proves that he did not know and had no reasonable cause to suspect that the facts of the case were such that the offence would have been committed;
  - (h) any offence during the course of which, or in order to escape apprehension for which, he uses a motor vehicle.
- (2) A disqualification-
- (a) imposed in respect of an offence specified in subsection (1)(f), shall be limited to the driving of a taxi; and
  - (b) imposed in respect of any other offence specified in subsection (1) shall be a disqualification from holding or obtaining any driving licence. (Replaced 43 of 1986 s. 3)
- (3) When a person is convicted of aiding, abetting, counselling or procuring or inciting the commission of an offence under Part 5 or section 52(1), and it is proved that he was present in the vehicle at the time of the commission of the offence, the offence of which he is convicted shall, for the purposes of this Ordinance, be deemed to be an offence in connection with the driving of a motor vehicle.

(Amended E.R. 2 of 2012)

Section:	69A	<b>Start of disqualification period</b>	E.R. 2 of 2012	02/08/2012
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- (1) This section applies if—
- (a) a court or magistrate convicts a person of a relevant scheduled offence;
  - (b) the conviction is the person's second or subsequent conviction of a relevant scheduled offence, regardless of whether that conviction is for the same or for a different relevant scheduled offence;
  - (c) the court or magistrate sentences the person to undergo a term of imprisonment or detention and the sentence is not suspended; and
  - (d) the court or magistrate orders that the person be disqualified for a fixed period.
- (2) The court or magistrate must direct that the disqualification period is not to start to run until the person finishes serving the term of imprisonment or detention, or finishes serving any other term of imprisonment or detention which the person is undergoing at the time he or she finishes serving the first-mentioned term, or has been previously sentenced to undergo (whichever is the later), unless the court or magistrate for special reasons decides not to make such a direction. (Amended 24 of 2011 s. 15)
- (3) The court or magistrate may deal with the conviction of a relevant scheduled offence as a first conviction if, as at the date on which the offence was committed, at least 5 years have passed since the person's last conviction of a relevant scheduled offence.
- (4) Subject to subsection (5), 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.

- (5) 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 (8)(a) (admission to bail pending sentence or appeal).
- (6) Subsection (4) 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.
- (7) For the purpose of subsection (6), each 30 days deducted under subsection (4) is to be treated as being equal to a month.
- (8) Without limiting subsection (4), 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.
- (9) In this section **relevant scheduled offence** (有關表列罪行) means an offence mentioned in the Schedule to the Road Traffic (Driving-offence Points) Ordinance (Cap 375) for which the number of points set out opposite that offence in that Schedule is 10.

(Added 19 of 2010 s. 18)

Section:	70	<b>Re-testing of drivers</b>	E.R. 2 of 2012	02/08/2012
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- (1) (Repealed 43 of 1986 s. 4)
- (2) Where a person is convicted of an offence involving obligatory or discretionary disqualification the court or magistrate may, whether or not it makes any other order as to disqualification, and whether or not such person has previously passed the test of competence to drive prescribed under this Ordinance, order him to be disqualified until he has, after the date of the order, passed that test. (Amended 43 of 1986 s. 4; 23 of 2008 s. 17)
- (3) A disqualification by virtue of an order under subsection (2) shall be deemed to have expired on production to the Commissioner of evidence, in such form as may be prescribed under this Ordinance, that the person disqualified has, after the order was made, passed that test. (Amended 43 of 1986 s. 4)
- (4) A person disqualified by virtue of an order under subsection (2) shall, unless he is disqualified otherwise than by virtue of such an order, be entitled to obtain and hold a learner's driving licence and to drive a motor vehicle in accordance with the conditions subject to which the licence is granted. (Amended 43 of 1986 s. 4)
- (5) This section does not apply if the court or magistrate makes an order that a person be disqualified for life. (Added 24 of 2011 s. 16)

Section:	71	<b>Notification and effect of, and appeal against, disqualification</b>	E.R. 2 of 2012	02/08/2012
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- (1) Where a court or magistrate orders that a person shall be disqualified, it shall forthwith cause notice of the conviction and order to be sent to the Commissioner and the Commissioner of Police and, if such person at the

date of the conviction or order holds a driving licence, an international driving permit, a domestic driving permit or a domestic driving licence, shall cause it to be forwarded to the Commissioner as soon as it is produced to the court or magistrate in accordance with the provisions of subsection (2).

- (2) Where a court or magistrate orders that a person shall be disqualified and at the date of such order the person holds a driving licence, an international driving permit, a domestic driving permit or a domestic driving licence, it shall also order him to deposit it with the court or magistrate within 5 days of the date of the order or such longer period as the court or magistrate may determine:  
Provided that if such person shall give notice of appeal against the order such period of 5 days shall commence at the determination of the appeal if the appeal is dismissed.
- (3) Where a person who is disqualified by virtue of a conviction or order is the holder of a driving licence, an international driving permit, a domestic driving licence or a domestic driving permit, the licence or permit shall, subject to section 70(4), be of no effect so long as the disqualification continues in force.
- (4) A person who is disqualified by virtue of the order of a court or magistrate may appeal against the disqualification in like manner as if it were an order made against him for the payment of a penal or other sum and the court or magistrate which made the order may order the operation of the disqualification to be suspended pending the appeal and if that court or magistrate refuses to order such suspension, the court or magistrate to which the appeal lies may do so.
- (5) Any person who fails to comply with an order made under subsection (2) for the deposit of a driving licence, international driving permit, domestic driving permit or domestic driving licence, commits an offence and is liable to a fine of \$3000 and to imprisonment for 1 month.

(Amended 23 of 2008 s. 18)

Section:	72	<b>Removal of disqualification</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person who by virtue of the order of a court or magistrate is disqualified other than under section 70(2) may at any time apply for an order removing the disqualification, and on any such application the court or magistrate may, having regard to the character of the person disqualified and his conduct subsequent to the order, the nature of the offence and any other circumstances of the case, either refuse the application or remove the disqualification as from such date, subject to subsection (2), as may be specified in the order. (Amended 43 of 1986 s. 5; 23 of 2008 s. 19)
- (2) In the case of an offence for which a minimum period of disqualification is specified by this Ordinance, the date from which a disqualification may be removed under subsection (1) shall not be a date earlier than the date of expiration of such period, disregarding any time after the conviction or order for disqualification during which the disqualification was suspended or the applicant was not disqualified.
- (3) An application under subsection (1) shall be made-
  - (a) where the disqualification was imposed by the Court of First Instance, to the Court of First Instance;
  - (b) where the disqualification was imposed by the District Court, to the Court of First Instance or District Court;
  - (c) where the disqualification was imposed by a magistrate, to the Court of First Instance, the District Court or any magistrate. (Amended 25 of 1998 s. 2)
- (4) When an application under subsection (1) is refused, no further application thereunder shall be entertained which is made less than 3 months after the date of the refusal or, as the case may be, the last refusal.
- (5) An application under subsection (1) shall not be heard unless not less than 14 days' notice in writing setting forth the grounds of the application has been given to the Commissioner of Police.
- (6) A court or magistrate which orders a disqualification to be removed shall cause notice of the order to be sent to the Commissioner and to the Commissioner of Police and may in any case order the applicant to pay the whole or any part of the costs of the application. (Amended 23 of 2008 s. 19)

Section:	72A	<b>Power of court or magistrate to order persons to attend driving improvement courses*</b>	E.R. 2 of 2012	02/08/2012
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- (1) Where a court or magistrate convicts a person of an offence specified in Schedule 11, the court or magistrate may do either or both of the following- (Amended 23 of 2008 s. 20)
  - (a) impose any penalty that may be imposed for the offence;
  - (b) order the person to attend and complete a driving improvement course.

- (1A) Subject to subsection (1B), where a court or magistrate convicts a person of an offence under section 36, 36A, 37, 39, 39A, 39B, 39C, 39J, 39K, 39L, 39O(1), 39S or 55, or convicts an applicable person of an offence under section 41(1), the court or magistrate shall order the person to attend and complete a driving improvement course, unless the court or magistrate for special reasons decides not to make such an order. (Added 23 of 2008 s. 20. Amended 19 of 2010 s. 19; 24 of 2011 s. 17)
- (1B) If a person, on being convicted of an offence in any proceedings, is ordered under subsection (1)(b) or (1A) to attend and complete a driving improvement course, the person is not to be ordered under that subsection to attend and complete a driving improvement course in respect of any other offence of which he is convicted in those proceedings. (Added 23 of 2008 s. 20)
- (2) Where a court or magistrate makes an order under subsection (1)(b) in addition to imposing a penalty under subsection (1)(a), the penalty so imposed may be a penalty that is lighter than the court or magistrate might have imposed had the order not been made. (Amended 23 of 2008 s. 20)
- (3) A person who is ordered to attend and complete a driving improvement course under subsection (1) or (1A) must, at the person's own cost, attend and complete that course in accordance with subsection (3A), (3B) or (3C) as may be applicable to the person. (Replaced 24 of 2011 s. 17)
- (3A) The person must attend and complete the driving improvement course within 3 months beginning on the date the order is made to attend and complete it if the person-
- (a) has not been ordered to serve a term of imprisonment or detention and is not the subject of a disqualification order; or
  - (b) has not been ordered to serve a term of imprisonment or detention, but is the subject of a disqualification order with a disqualification period of less than 3 months. (Replaced 24 of 2011 s. 17)
- (3B) The person must attend and complete the driving improvement course within the last 3 months of the disqualification period if the person-
- (a) has not been ordered to serve a term of imprisonment or detention, but is the subject of a disqualification order with a disqualification period of 3 months or more; or
  - (b) has been ordered to serve a term of imprisonment or detention and is also the subject of a disqualification order with a disqualification period that ends after a period of 3 months or more beginning on the date the person finishes serving that term. (Replaced 24 of 2011 s. 17)
- (3C) The person must attend and complete the driving improvement course within 3 months beginning on the date the person finishes serving the term of imprisonment or detention if the person-
- (a) has been ordered to serve a term of imprisonment or detention, but is not the subject of a disqualification order; or
  - (b) has been ordered to serve a term of imprisonment or detention and is also the subject of a disqualification order with a disqualification period that ends-
    - (i) before the person finishes serving that term; or
    - (ii) within a period of less than 3 months beginning on the date the person finishes serving that term. (Added 24 of 2011 s. 17)
- (4) Where a judge or magistrate considers, on application made by a person in accordance with subsection (5), that the person is not able to or has failed to attend and complete a driving improvement course within the compliance period with reasonable excuse, the judge or magistrate may order that the compliance period be extended for such period as the judge or magistrate considers appropriate. (Amended 23 of 2008 s. 20; 24 of 2011 s. 17)
- (5) An application under subsection (4) shall be-
- (a) where the order referred to in subsection (1)(b) or (1A) is made by a judge of the Court of First Instance, made in writing to a judge of the Court of First Instance and sent to the Registrar;
  - (b) where the order referred to in subsection (1)(b) or (1A) is made by a judge of the District Court, made in writing to a judge of the District Court and sent to the Registrar;
  - (c) where the order referred to in subsection (1)(b) or (1A) is made by a magistrate, made in writing to a magistrate and sent to the magistrates' clerk. (Amended 23 of 2008 s. 20)
- (6) Where-
- (a) a judge makes an order under subsection (4), the Registrar;
  - (b) a magistrate makes an order under subsection (4), the magistrates' clerk,
- shall give notice of the order to the person who made the application and the Commissioner.
- (7)-(8) (Repealed 23 of 2008 s. 20)
- (9) A person who, without reasonable excuse, fails to comply with subsection (3) commits an offence and is liable

- on conviction to a fine at level 2 and to imprisonment for 1 month. (Amended 23 of 2008 s. 20; 24 of 2011 s. 17)
- (9A) If a court or magistrate convicts a person of an offence under subsection (9), the court or magistrate shall order the person to attend and complete a driving improvement course at his own cost within the period specified in the order, unless the court or magistrate for special reasons decides not to make such an order. (Added 23 of 2008 s. 20)
- (9B) A person who, without reasonable excuse, fails to comply with the order made under subsection (9A) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 2 months. (Added 23 of 2008 s. 20)
- (9C) If a court or magistrate convicts a person of an offence under subsection (9B), and the person is not disqualified, the court or magistrate shall order that the person be disqualified for a period of not less than 3 months, or until the person has attended and completed a driving improvement course at his own cost, whichever is the later, unless the court or magistrate for special reasons orders that the person be disqualified for a shorter period or that the person not be disqualified. (Added 23 of 2008 s. 20)
- (9D) If a person is ordered to attend and complete a driving improvement course under subsection (1)(b), (1A) or (9A), he may appeal against the order in like manner as if it were an order made against him for the payment of a fine. (Added 23 of 2008 s. 20)
- (9E) If a person appeals against an order under subsection (9D), the compliance period, or that period as extended under subsection (4), or, in relation to an order made under subsection (9A), the period specified in the order does not commence or continue to run, as the case may be, until the appeal is withdrawn or dismissed. (Added 23 of 2008 s. 20. Amended 24 of 2011 s. 17)
- (10) The Legislative Council may by resolution amend Schedule 11.
- (11) In this section-
- compliance period** (遵從期間) means, in relation to a person who has been ordered under subsection (1) or (1A) to attend and complete a driving improvement course, the period specified in subsection (3A), (3B) or (3C) for attending and completing that course, as may be applicable to the person; (Replaced 24 of 2011 s. 17)
- disqualification order** (停牌令) means an order made under section 36(2), 36A(2), 37(2), 39(2), 39A(2), 39B(7), 39C(16), 39J(2), 39K(2), 39L(2), 39O(4), 39S(3), 41(3), 55(2) or 69(1)(a) that a person be disqualified; (Added 24 of 2011 s. 17)
- disqualification period** (停牌期) means, in relation to a disqualification order in which the court or magistrate has specified the period for which the convicted person is to be disqualified with reference to a fixed period and the completion of a driving improvement course, the fixed period; (Added 24 of 2011 s. 17)
- judge** (法官) means-
- in relation to the Court of First Instance, a judge of the Court of First Instance, a recorder of the Court of First Instance and a deputy judge of the Court of First Instance;
  - in relation to the District Court, a District Judge and a deputy District Judge;
- Registrar** (司法常務官) means-
- in relation to proceedings in the Court of First Instance, the Registrar of the High Court;
  - in relation to proceedings in the District Court, the Registrar of the District Court; (Amended 24 of 2011 s. 17)
- term of imprisonment or detention** (監禁或拘留刑期) means a period of deprivation of liberty a person is ordered to undergo or is undergoing-
- on conviction for an offence for which a disqualification order is made; or
  - on conviction for any other offence. (Added 24 of 2011 s. 17)
- (Amended 23 of 2008 s. 20)
- (12) For the purposes of subsection (1A), a person is, in relation to an offence under section 41(1), an applicable person if it is proved or admitted that, at the time of the offence, the person was driving the vehicle at a speed exceeding the relevant speed limit as described in that section by more than 45 km an hour. (Added 23 of 2008 s. 20)
- (13) For the purposes of subsection (9C), a person is disqualified for a shorter period if he is disqualified for a period of less than 3 months, or until the person has attended and completed a driving improvement course at his own cost, whichever is the later. (Added 23 of 2008 s. 20)
- (14) The requirement in subsection (1A) to order a person to attend and complete a driving improvement course does

not apply if the court or magistrate makes an order that the person be disqualified for life. (Added 24 of 2011 s. 17)

(Added 3 of 2002 s. 4)

**Note:**

\* (Amended 23 of 2008 s. 20)

Section:	73	<b>Evidence by certificate</b>	E.R. 2 of 2012	02/08/2012
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- (1) In any proceedings for an offence under this Ordinance, a certificate in the form set out in Form 1 of Schedule 2 purporting to be signed by a police officer and certifying that a plan or drawing exhibited thereto is a plan or drawing made by him of the place or object specified in the certificate, and that the plan or drawing is correctly drawn to a scale so specified, shall be admissible as evidence of the relative positions of the things shown on the plan or drawing.
- (2) In any proceedings for an offence under this Ordinance, a certificate in the form set out in Form 2 of Schedule 2 purporting to be signed by a police officer and certifying that a person specified in the certificate stated to the police officer-
  - (a) that a particular motor vehicle was being driven or used by, or belonged to, that person on a particular occasion; or
  - (b) that a particular motor vehicle on a particular occasion was used by, or belonged to, a firm in which that person also stated that he was at the time of the statement a partner; or
  - (c) that a particular motor vehicle on a particular occasion was used by, or belonged to, a corporation of which that person also stated that he was at the time of the statement a director, officer or employee,
 shall be admissible as evidence for the purpose of determining by whom the vehicle was being driven or used, or to whom it belonged, as the case may be, on that occasion.
- (3) Nothing in subsection (1) or (2) shall be deemed to make a certificate admissible as evidence in proceedings for an offence except in a case where and to the like extent to which oral evidence to the like effect would have been admissible in those proceedings.
- (4) Nothing in subsection (1) or (2) shall be deemed to make a certificate admissible as evidence in proceeding for an offence-
  - (a) unless a copy thereof has, not less than 7 days before the hearing or trial, been served on the person charged with the offence; or
  - (b) if that person, not later than 3 days before the hearing or trial or within such further time as the court may in special circumstances allow, serves a notice in the form set out in Form 3 of Schedule 2 on the prosecutor requiring attendance at the trial of the person who signed the certificate.
- (5) A certificate or other document required by subsection (4) to be served on any person may be served-
  - (a) by delivering it personally to the person to be served, or by addressing it to him and leaving it at, or sending it by registered post to his last or usual place of abode or place of business; or
  - (b) in the case of a body corporate, by delivering it to the secretary or clerk of the body at its registered or principal office or by sending it by registered post addressed to the secretary or clerk of that body at that office.

Section:	74	<b>Certificate as to registered owner of vehicle or holder of driving licence</b>	E.R. 2 of 2012	02/08/2012
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- (1) A document purporting-
  - (a) to be signed by or on behalf of the Commissioner or the Commissioner of Police; and
  - (b) to certify-
    - (i) that according to the register of motor vehicles maintained under this Ordinance a person specified in the certificate was registered as the owner of a motor vehicle specified therein; or
    - (ii) that according to the register of driving licences maintained under this Ordinance a person specified in the certificate was the holder of a driving licence specified therein,
 shall be admitted in any civil or criminal proceedings before any court on its production without further proof.
- (2) On the production of a document under subsection (1), the court before which it is produced shall, until the contrary is proved, presume-



- (a) that it was signed at the time specified therein by a person duly authorized by the Commissioner or the Commissioner of Police as the case may be; and
- (b) that-
  - (i) in the case of a certificate under subsection (1)(b)(i), the person specified in the certificate was at any time specified therein the registered owner of the motor vehicle specified therein; or
  - (ii) in the case of a certificate referred to in subsection (1)(b)(ii), that the person specified in the certificate was the holder of the driving licence specified therein,
 and the certificate shall be prima facie evidence of all the matters contained therein.

Section:	75	<b>Proof of matters relating to previous convictions</b>	E.R. 2 of 2012	02/08/2012
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- (1) A document purporting-
  - (a) to be signed by or on behalf of the Commissioner of Police; and
  - (b) to certify that according to the record of convictions for offences under this Ordinance compiled and maintained by the Commissioner of Police under this section a person having the name, and holding the driving licence, specified in the certificate is recorded as having on the date specified in the certificate been convicted of the offence under this Ordinance specified in the certificate,
 shall be admitted in any criminal proceedings before any court on its production without further proof.
- (2) On the production of a document under subsection (1)-
  - (a) the court shall, until the contrary is proved, presume that the document was signed at the time specified therein by or on behalf of the Commissioner of Police; and
  - (b) the document shall be evidence that the person having the name and holding the driving licence specified in the document was on the date so specified convicted of the offence so specified.
- (3) The Commissioner of Police may, for the purposes of this section, cause to be compiled and maintained from information obtained from such persons and in such manner as the Commissioner of Police shall determine records of conviction of persons for offences under this Ordinance.
- (4) Any records of convictions of persons for offences under this Ordinance compiled and maintained by the Commissioner of Police prior to the commencement of this section shall be deemed to be records compiled and kept under this section.
- (5) Subject to subsection (5A), the Commissioner of Police shall, on payment of the prescribed fee and receipt of the completed application form for a record or certificate under this section, issue to the holder of a driving licence a record of all convictions of offences under this Ordinance or payments or orders to pay under the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240) recorded in respect of that person or, where it appears from records maintained by the Commissioner of Police that such person has not been convicted of an offence under this Ordinance, a certificate to that effect. (Amended 66 of 1987 s. 3; 80 of 1991 s. 2; 10 of 1996 s. 9)
- (5A) The Commissioner of Police shall not issue the record or certificate to the person under subsection (5) unless he is satisfied that all fines, fixed penalties, additional penalties and costs ordered by the court or magistrate to be paid by the holder of a driving licence under the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237) or the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240) have been paid. (Added 80 of 1991 s. 2)
- (5B) For the avoidance of doubt, a record issued under subsection (5) may, at the written request of the applicant, reveal all convictions under this Ordinance or payments or orders to pay under the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240), notwithstanding the provisions of the Rehabilitation of Offenders Ordinance (Cap 297). (Added 10 of 1996 s. 9)
- (6) Neither the Government nor any public officer shall be subject to any action, liability, claim or demand whatsoever arising out of compliance with, or any failure to comply in any respect with, subsection (5).

Section:	76	<b>Service</b>	E.R. 2 of 2012	02/08/2012
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- (1) Unless otherwise specifically provided by this Ordinance, any notice required to be served under this Ordinance may be served by sending it by post-
  - (a) where it is directed to a registered owner, to his registered address; or
  - (b) where it is directed to a driver, to his last known postal address.
- (2) A certificate of posting in the prescribed form purporting to be signed by or for the Commissioner or the Commissioner of Police, as the case may be, shall be admitted in evidence on its production without further proof and-

- (a) until the contrary is proved, it shall be presumed that the certificate is so signed;
- (b) it shall be conclusively presumed that the notice to which the certificate relates was duly served.

Section:	77	<b>Exemptions of fire engines, etc. from speed limits and traffic lights</b>	E.R. 2 of 2012	02/08/2012
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- (1) The provisions of any enactment imposing a speed limit on motor vehicles shall not apply to any vehicle on an occasion when it is being used for fire services, ambulance, customs and excise service or police purposes, if compliance with those provisions would be likely to hinder the use of the vehicle on that occasion for any of those purposes.
- (2) The provisions of any enactment imposing control by traffic lights or traffic signs on motor vehicles shall not apply to any motor vehicle on an occasion when it is being used for police, fire services or ambulance purposes, so long as the approach of the vehicle to the traffic lights or traffic sign, as the case may be, is indicated by the sounding of a gong, bell or siren and if compliance with those provisions would be likely to hinder the use of the vehicle on that occasion for any of those purposes.
- (3) Nothing in this section shall affect any civil claim for injury or damage to a person or to property.

Part:	8A	<b>Testing of Motor Vehicle Emissions</b>	E.R. 2 of 2012	02/08/2012
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(Part 8A added 3 of 1991 s. 5)

Section:	77A	<b>Interpretation</b>	E.R. 2 of 2012	02/08/2012
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In this Part and Schedule 10, unless the context otherwise requires-

**approved vehicle emission tester** (認可車輛廢氣測試員) means a person authorized in writing by the Commissioner under section 77F(1)(d);

**certificate of compliance** (合格證明書) means a certificate issued by a vehicle emission testing centre in the form specified by the Commissioner in respect of a motor vehicle and indicating that the motor vehicle was found to comply with vehicle emission standards upon testing at the vehicle emission testing centre;

**code of practice** (實務守則) means a code of practice issued and from time to time revised under section 77F(1)(a);

**designation** (指定) means a designation of a vehicle emission testing centre under section 77C(1);

**proprietor** (東主), in relation to a vehicle emission testing centre, means a person having the conduct or control of it, whether or not he is a natural person and whether or not he is the owner;

**responsible person** (負責人) means a person authorized in writing by the Commissioner under section 77F(1)(e);

**test** (測試) means a vehicle emission test in accordance with a code of practice and "testing" (測試) shall be construed accordingly;

**vehicle emission testing centre** (車輛廢氣測試中心) means a place designated as a vehicle emission testing centre under section 77C(1).

(Added 3 of 1991 s. 5)

Section:	77B	<b>Compliance with vehicle emission standards</b>	E.R. 2 of 2012	02/08/2012
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The Commissioner may, for the purpose of ascertaining whether a motor vehicle complies with vehicle emission standards, require the registered owner to have the motor vehicle tested at a vehicle emission testing centre.

(Added 3 of 1991 s. 5)

Section:	77C	<b>Authorized vehicle emission testing centres</b>	E.R. 2 of 2012	02/08/2012
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(1) The Commissioner may, in writing, designate any place (including any place designated under section 88C as a car testing centre or any place designated as a vehicle examination centre) as a vehicle emission testing centre and may impose such conditions relating to that designation as he thinks fit.

(2) Where a place is designated as a vehicle emission testing centre under subsection (1), such designation-

- (a) shall authorize the person specified in the designation as the proprietor of that place, to operate that place as a vehicle emission testing centre in accordance with-
  - (i) a code of practice;
  - (ii) Schedule 10; and
  - (iii) such conditions as may be specified by the Commissioner in the designation; and
- (b) shall not be valid except on payment of the fee specified in paragraph 6(a) of Schedule 10.
- (3) Without prejudice to the generality of subsection (2)(a)-
  - (a) the fee specified in paragraph 6(b) of Schedule 10 shall be payable by the registered owner of a motor vehicle to the proprietor of a vehicle emission testing centre in respect of a test carried out under this Part;
  - (b) the conditions that may be specified in a designation under subsection (2)(a)(iii) may include conditions relating to-
    - (i) the supply by the Commissioner to the proprietor specified in the designation of any document or form to be used for the purposes of this Part; and
    - (ii) the fee as specified in paragraph 6(c) of Schedule 10, payable by that proprietor in respect of such supply and the refund of such fee.
- (4) The Commissioner shall cause notice of the designation of a place as a vehicle emission testing centre to be published in the Gazette.
- (5) Subject to section 77D, a designation-
  - (a) shall be valid for a period of 3 years from such date as shall be specified in the designation;
  - (b) may, on application made to the Commissioner not less than 6 months before the date of its expiration and on payment of the fee specified in paragraph 6(a) of Schedule 10, be renewed in writing by the Commissioner.
- (6) A renewal of a designation under subsection (5) shall-
  - (a) not be valid except on payment of the fee specified in paragraph 6(a) of Schedule 10; and
  - (b) be valid for a period of 3 years from such date as the Commissioner shall specify in the renewal.

(Added 3 of 1991 s. 5)

Section:	77D	<b>Revocation of designation</b>	E.R. 2 of 2012	02/08/2012
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- (1) If in the case of any proprietor of a vehicle emission testing centre it appears to the Commissioner that-
  - (a) there has been a breach of-
    - (i) a code of practice as it affects the operation of that centre;
    - (ii) Schedule 10;
    - (iii) the conditions specified in the designation under section 77C; or
  - (b) certificates of compliance have been improperly issued; or
  - (c) certificates of compliance have been incorrectly dated for fraudulent purposes; or
  - (d) the proprietor has ceased to trade, or is being wound up or grounds exist for a creditor to present a bankruptcy petition against him, (Amended 37 of 1998 s. 6)

the Commissioner may serve on the proprietor a notice stating his intention to revoke the designation and the ground or grounds therefor and requiring the proprietor to show cause in writing, within 28 days after the service of such notice, why the designation should not be so revoked.
- (2) Where after a notice is served on a proprietor under subsection (1)-
  - (a) the proprietor does not show cause why the designation should not be revoked; or
  - (b) the Commissioner, having considered any representations made by the proprietor, is of the opinion that the proprietor has not shown good cause why the designation should not be revoked,

the Commissioner may, by notice in writing served on the proprietor, revoke the designation with effect from such date being not less than 14 days after service of the notice as he shall specify in the notice.
- (3) Any proprietor of a vehicle emission testing centre aggrieved by a decision of the Commissioner under subsection (2) to revoke the designation of such vehicle emission testing centre may appeal to a Transport Tribunal against such decision within 14 days of receiving notice of the decision and on any such appeal a Transport Tribunal may affirm, amend or reverse such decision.
- (4) A decision of the Commissioner appealed against under subsection (3) shall not have effect pending the determination of the appeal by a Transport Tribunal.
- (5) The Commissioner shall cause notice of the revocation of a designation under subsection (2) to be published in the Gazette as soon as practicable after the revocation has come into effect.

(6) No compensation shall be payable in respect of the revocation of a designation under this section.

(Added 3 of 1991 s. 5)

Section:	77E	<b>Termination of designation</b>	E.R. 2 of 2012	02/08/2012
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(1) Notwithstanding section 77D, a designation in respect of a vehicle emission testing centre shall be terminated in the following cases-

- (a) where the Commissioner serves written notice on the proprietor of not less than 6 months, on the expiration of the period of such notice;
  - (b) where the proprietor serves written notice on the Commissioner of not less than 3 months, on the expiration of the period of such notice.
- (2) Where a designation is terminated under this section, the Commissioner may make a refund in respect of any fee paid under section 77C of an amount not exceeding the sum obtained by dividing the amount of the fee paid by 36 and multiplying the result by the number of months in the unexpired period of the designation.
- (3) The Commissioner shall cause a copy of every notice served under subsection (1) to be published in the Gazette.

(Added 3 of 1991 s. 5)

Section:	77F	<b>Ancillary powers of Commissioner</b>	E.R. 2 of 2012	02/08/2012
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(1) For the purposes of this Part the Commissioner may-

- (a) issue and from time to time revise a code of practice setting out vehicle emission standards and the practice and procedure to be followed and specifying the equipment to be used for the testing centres;
  - (b) specify any form or other document;
  - (c) conduct training courses for the purposes of paragraph (d);
  - (d) authorize in writing persons to act as approved vehicle emission testers who have attended and completed a training course conducted by the Commissioner for the purpose of training persons to be approved vehicle emission testers;
  - (e) authorize in writing persons to act as responsible persons at vehicle emission testing centres in respect of the supervision of tests of motor vehicles carried out under this Part.
- (2) A code of practice issued, and from time to time revised, under subsection (1) may specify the circumstances in which the fees set out in paragraph 6(a) or (b) of Schedule 10 are to be waived, reduced or refunded.

(Added 3 of 1991 s. 5)

Section:	77G	<b>Power to enter and inspect records, equipment, etc.</b>	E.R. 2 of 2012	02/08/2012
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(1) Any public officer authorized in writing by the Commissioner for the purposes of this section, may, during the hours when a vehicle emission testing centre is open for business, enter any vehicle emission testing centre and on production of his authorization-

- (a) inspect and take copies of any record, book or document kept or maintained in respect of the testing of motor vehicles;
  - (b) inspect or test any equipment used for the testing of motor vehicles; and
  - (c) observe and monitor the testing of any motor vehicle.
- (2) Any person who obstructs an officer in the execution of his duty under subsection (1) commits an offence and is liable to a fine of \$5000 and imprisonment for 6 months.

(Added 3 of 1991 s. 5)

Section:	77H	<b>Amendment of Schedule 10</b>	E.R. 2 of 2012	02/08/2012
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(1) The Chief Executive may by order published in the Gazette amend Schedule 10. (Amended 3 of 2002 s. 15)

(2) The Financial Secretary may by order published in the Gazette amend the fees set out in paragraph 6 of Schedule 10.

(Replaced 39 of 1995 s. 10)

Section:	77I	<b>Protection of Government and public officers</b>	E.R. 2 of 2012	02/08/2012
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No proceedings in tort shall lie against the Government or any public officer by reason only of the fact that a place is designated as a vehicle emission testing centre under this Part.

(Part 8A added 3 of 1991 s. 5. Amended 3 of 2002 s. 15)

Part:	9	<b>Examination of Vehicles*</b>	E.R. 2 of 2012	02/08/2012
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**Note:**

**\* (Amended 90 of 1993 s. 4)**

Section:	78	<b>Examination of vehicles in connection with registration etc.</b>	E.R. 2 of 2012	02/08/2012
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- (1) Before-
- (a) registering a vehicle;
  - (b) issuing a duplicate registration document to the registered owner of a vehicle;
  - (c) returning the registration document to a new registered owner;
  - (d) licensing a vehicle; or
  - (e) entering in the register any alterations to a vehicle notified under this Ordinance,
- the Commissioner may, by notice given in the manner provided in subsection (1A), require production of a vehicle of any class for examination at such vehicle examination centre as the Commissioner may determine for the purpose of ascertaining whether a vehicle-
- (i) accords, as the case may be, with the particulars contained in the application for registration or for the vehicle licence or in the notice of transfer of ownership, or with the particulars contained in the register, or with the alterations notified under this Ordinance;
  - (ii) is roadworthy;
  - (iii) complies with vehicle design standards;
  - (iv) complies with this Ordinance and any conditions subject to which a vehicle licence was issued in respect of the vehicle. (Amended 7 of 1992 s. 2)
- (1A) A notice under subsection (1) may-
- (a) be given in writing in respect of a particular vehicle and served either personally or by registered post on the owner, the registered owner or the new owner of any such vehicle;
  - (b) be given by publication in the Gazette and in 1 Chinese and 1 English newspaper circulating in Hong Kong in respect of a vehicle of any class and by reference to model, country of origin, date of manufacture or any other thing;
  - (c) in the case of a notice given under paragraph (a), specify the date and time that the vehicle is to be produced for examination;
  - (d) in the case of a notice given under paragraph (b), include such advice and information as appears to the Commissioner to be required to enable the examination of a vehicle at a date and time to be specified by the Commissioner or by any person authorized to operate a place as a vehicle examination centre under section 88(3). (Added 7 of 1992 s. 2)
- (2) A vehicle produced at a vehicle examination centre pursuant to subsection (1) may be detained for a period not exceeding 24 hours.
- (3) The fee for a vehicle examination under this section shall be payable-
- (a) in the case of a notice given under subsection (1A)(a), upon receipt of the notice requiring the vehicle to be produced for examination;
  - (b) in the case of a notice given under subsection (1A)(b), upon the specifying of a date and time for the examination of the vehicle under subsection (1A)(d). (Replaced 7 of 1992 s. 2)
- (4) Where a vehicle is to be examined at a vehicle examination centre not being the subject of an agreement made under section 88(3), the fee for such examination shall be payable to the Government and in the event of non-production of the vehicle at a date and time specified under subsection (1A)(c) or (d), no refund shall be payable of any fee paid unless-
- (a) the Commissioner receives at least 14 days notice in writing of such non-production; or
  - (b) the Commissioner is satisfied that-

- (i) circumstances beyond the control of the person who was required to produce the vehicle prevented him from producing it; and
  - (ii) notice was given to the Commissioner of such non-production as soon as practicable. (Replaced 7 of 1992 s. 2)
- (5) Where a vehicle is to be examined at a vehicle examination centre being the subject of an agreement made under section 88(3), the fee for such examination shall be payable to the person authorized under the agreement to operate the vehicle examination centre and in the event of non-production of the vehicle at a date and time specified under subsection (1A)(c) or (d), no refund shall be payable of any fee paid unless-
- (a) the person so authorized receives at least 14 days notice in writing of such non-production; or
  - (b) the Commissioner is satisfied that-
    - (i) circumstances beyond the control of the person who was required to produce the vehicle prevented him from producing it; and
    - (ii) notice was given to the person so authorized of such non-production as soon as practicable. (Added 7 of 1992 s. 2)

(Amended 90 of 1993 s. 5)

Section:	79	<b>Examination orders for examination of vehicles</b>	E.R. 2 of 2012	02/08/2012
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The Commissioner or any police officer may serve or cause to be served personally on the driver, or by registered post on the registered owner, of a vehicle an examination order in a form specified by the Commissioner requiring production of the vehicle for examination at such vehicle examination centre, and at such time on such date, as shall be specified in the examination order, for the purpose of ascertaining whether the vehicle-

- (a) accords with the particulars thereof contained in the register;
- (b) is road worthy;
- (ba) complies with vehicle emission standards; (Added 3 of 1991 s. 7)
- (c) complies with this Ordinance and any conditions subject to which a vehicle licence was issued in respect of the vehicle.

(Amended 90 of 1993 s. 5)

Section:	80	<b>Examination of vehicle on road by police officer and removal to vehicle examination centre or police station</b>	E.R. 2 of 2012	02/08/2012
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- (1) A police officer may-
- (a) examine; or
  - (b) cause to be examined by a vehicle examiner,
- a vehicle which is being used on a road, for the purpose of ascertaining whether the vehicle complies with this Ordinance and any condition subject to which the vehicle licence in respect of the vehicle was issued.
- (2) Any police officer who, as a result of an examination of a vehicle under subsection (1), has reason to believe that-
- (a) the vehicle has been involved in an accident;
  - (b) the vehicle is not road worthy; (Amended 3 of 1991 s. 8)
  - (ba) the vehicle does not comply with vehicle emission standards; or (Added 3 of 1991 s. 8)
  - (c) the vehicle does not comply with this Ordinance or any condition subject to which the vehicle licence in respect of the vehicle was issued,
- may-
- (i) direct the driver of the vehicle to drive it to such vehicle examination centre or police station as the police officer may specify; or
  - (ii) direct the driver and any other person to leave the vehicle and himself drive or remove the vehicle or cause it to be driven or removed to any vehicle examination centre or police station,
- and may cause the vehicle to be detained at a vehicle examination centre or police station for not more than 72 hours while the vehicle is examined by a vehicle examiner.
- (3) A police officer who-
- (a) directs a driver to drive a vehicle; or
  - (b) drives or removes a vehicle or cause it to be driven or removed,
- to a vehicle examination centre or police station under subsection (2) shall serve on the driver of the vehicle a

notice specifying-

- (i) his belief that the vehicle has been involved in an accident;
  - (ii) the respect in which he believes the vehicle is not roadworthy; (Amended 3 of 1991 s. 8)
  - (iia) the respect in which he believes the vehicle does not comply with vehicle emission standards; or (Added 3 of 1991 s. 8)
  - (iii) the respect in which he believes the vehicle does not comply with this Ordinance or any condition subject to which the vehicle licence in respect of the vehicle was issued.
- (4) Any person who fails to comply with the directions of a police officer under subsection (2) commits an offence and is liable to a fine of \$5000.
- (5) Nothing in this section shall be deemed to authorize any person who is not the holder of a valid driving licence for a vehicle of the appropriate class to drive any vehicle in the course of any removal or examination.  
(Amended 90 of 1993 s. 5)

Section:	81	<b>Powers of vehicle examiner on examination of vehicle</b>	E.R. 2 of 2012	02/08/2012
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In carrying out an examination of a vehicle for the purposes of any of the provisions of this Part a vehicle examiner may carry out or cause to be carried out such inspection, examination or test of the vehicle, any part of the vehicle, any accessory affixed to the vehicle or any equipment or part of the equipment of the vehicle as he thinks fit and may weigh the vehicle or any load on the vehicle.  
(Amended 90 of 1993 s. 5)

Section:	82	<b>Vehicle not in accordance with particulars in register, form of application for registration or notice of transfer</b>	E.R. 2 of 2012	02/08/2012
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- (1) Where on examination of a vehicle under this Part a vehicle examiner finds that a vehicle does not accord with the particulars of the vehicle-
- (a) entered in the register; or
  - (b) contained in an application for registration or notice of transfer of ownership,
- the vehicle examiner shall notify the Commissioner and shall serve notice personally or by registered post-
- (i) on the owner of the vehicle or on the person who produced the vehicle for examination if he is present during the examination; and (Amended 7 of 1992 s. 3)
  - (ii) (Repealed 7 of 1992 s. 3)
  - (iii) where appropriate, on the new owner.
- (2) A notice under subsection (1) shall-
- (a) be in a form specified by the Commissioner; and
  - (b) specify the manner in which the vehicle does not accord with the particulars of the vehicle-
    - (i) entered in the register; or
    - (ii) contained in the application for registration or notice of transfer of ownership.
- (Amended 90 of 1993 s. 5)

Section:	83	<b>Vehicle not roadworthy or not in accordance with the Ordinance or conditions of vehicle licence, etc.</b>	E.R. 2 of 2012	02/08/2012
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- (1) Where on the examination of a vehicle under this Part it appears to the vehicle examiner that-
- (a) the vehicle is not roadworthy; (Amended 3 of 1991 s. 9)
  - (aa) the vehicle does not comply with vehicle emission standards; (Added 3 of 1991 s. 9. Amended 89 of 1994 s. 22)
  - (ab) the vehicle identification number of the vehicles has been altered or tampered with; or (Added 89 of 1994 s. 22)
  - (b) the vehicle does not comply with this Ordinance or any conditions subject to which a vehicle licence was issued in respect of the vehicle,
- he shall-
- (i) if he considers that the use of the vehicle on a road would be dangerous to other road users, or that the vehicle identification number has been altered or tampered with, refer the vehicle to a specially authorized vehicle examiner; (Amended 89 of 1994 s. 22)

- (ii) in any other case, make a vehicle repair order.
- (2) Where a specially authorized vehicle examiner considers that the use on a road of a vehicle examined under this Part would be dangerous to other road users, or that the vehicle identification number of the vehicle has been altered or tampered with, he shall make a suspension of vehicle licence order and cause the vehicle licence to be removed from the vehicle. (Amended 89 of 1994 s. 22)

(Amended 90 of 1993 s. 5)

Section:	84	<b>Suspension of vehicle licence orders</b>	E.R. 2 of 2012	02/08/2012
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- (1) A suspension of vehicle licence order shall-
  - (a) be in a form specified by the Commissioner;
  - (b) except where the order is made because of altering or tampering with the vehicle identification number, require the registered owner of the vehicle to cause to be carried out the repairs or other work specified in the order; (Amended 89 of 1994 s. 23)
  - (c) specify the conditions on which the vehicle may be moved or driven on a road and in particular specify the manner in which the vehicle may be moved from and to the vehicle examination centre; and (Amended 7 of 1992 s. 4)
  - (d) be served personally or by registered post-
    - (i) on the registered owner of the vehicle; or
    - (ii) on the person who produced the vehicle for examination if he is present during the examination. (Replaced 7 of 1992 s. 4)
- (2) Except where the suspension of vehicle licence order is made because of altering or tampering with the vehicle identification number, a suspension of vehicle licence order shall continue in force in respect of a vehicle until the repairs or other work required thereby have been carried out satisfactorily. (Amended 89 of 1994 s. 23)
- (2A) Where a suspension of vehicle licence order is made because of altering or tampering with a vehicle identification number, the order shall continue in force until the vehicle identification number of the vehicle to which the order relates has been verified to the satisfaction of the Commissioner as being the same as that contained in the relevant particulars in the register. (Added 89 of 1994 s. 23)
- (3) Where a suspension of vehicle licence order is in force in respect of a vehicle, the registered owner may produce the vehicle at such vehicle examination centre and at such time and on such date as may be specified by the Commissioner for examination by a vehicle examiner to ascertain whether the repairs or other work required by the order have been carried out satisfactorily, or the altering or tampering of the vehicle identification number has been verified in accordance with subsection (2A), as the case may be, and if such repairs or other work are found to have been so carried out, or the vehicle identification number has been so verified a specially authorized vehicle examiner shall cancel the suspension of vehicle licence order forthwith and restore the vehicle licence to the registered owner. (Amended 89 of 1994 s. 23)
- (4) Where a suspension of vehicle licence order is in force in respect of a vehicle, any person who moves or drives that vehicle on a road except in accordance with the suspension of vehicle licence order commits an offence and is liable to a fine of \$10000 and to imprisonment for 6 months. (Amended 7 of 1992 s. 4)

(Amended 90 of 1993 s. 5)

Section:	85	<b>Repair orders</b>	E.R. 2 of 2012	02/08/2012
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- (1) A vehicle repair order shall-
  - (a) be in a form specified by the Commissioner;
  - (b) require the registered owner of the vehicle to-
    - (i) cause to be carried out the repairs or other work specified in the order; and
    - (ii) produce the vehicle at such vehicle examination centre, and at such time on such date or within such period, as shall be specified in the order; and (Amended 7 of 1992 s. 5)
  - (c) be served personally or by registered post-
    - (i) on the registered owner of the vehicle; or
    - (ii) on the person who produced the vehicle for examination if he is present during the examination. (Replaced 7 of 1992 s. 5)
- (2) If, on the examination of a vehicle produced at a vehicle examination centre in accordance with a vehicle repair order, the vehicle examiner is not satisfied that the repairs or other work required by the order have been carried



out satisfactorily, he may make a further vehicle repair order under section 83.

- (3) The registered owner of a vehicle in respect of which a vehicle repair order has been made who fails to produce the vehicle for examination at the vehicle examination centre specified in the order at the time and on the date specified in the order, or on such further date and at the time as the Commissioner may allow in any case, commits an offence and is liable to a fine of \$10000.
- (4) In any proceedings for an offence under subsection (3) it shall be a good defence for the registered owner to prove that at the date specified in the vehicle repair order for production of the vehicle for examination-
  - (a) the vehicle had been broken up, destroyed or sent permanently out of Hong Kong; or
  - (b) the registration document relating to the vehicle had been submitted to the Commissioner for cancellation of the registration.

(Amended 90 of 1993 s. 5)

Section:	86	<b>Fees</b>	E.R. 2 of 2012	02/08/2012
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- (1) A fee as specified in Schedule 3 shall be payable in respect of an examination under section 78, 84(3) or 85(2).
- (2) The Chief Executive in Council may by order published in the Gazette amend Schedule 3. (Amended 3 of 2002 s. 15)

(Amended 66 of 1984 s. 10)

Section:	87	<b>Forfeiture and disposal</b>	E.R. 2 of 2012	02/08/2012
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- (1) If a vehicle-
  - (a) produced at a vehicle examination centre pursuant to a requirement under section 78 or 79 or of a vehicle repair order or pursuant to section 84(3); or
  - (b) driven to a vehicle examination centre under section 80,  
is not claimed within 14 days, the Commissioner shall serve personally or by registered post on the owner, the registered owner or the new owner, as the case may be, a notice in writing informing him that unless he-
    - (i) pays to the Commissioner any fee due under section 86; and
    - (ii) removes the vehicle from the vehicle examination centre within 7 days of the service of the notice,  
the vehicle shall be forfeited to the Government and may be sold or otherwise disposed of in such manner as the Commissioner thinks fit.
- (2) If a notice under subsection (1) is not complied with the vehicle shall thereupon be forfeited to the Government and may be sold or otherwise disposed of as the Commissioner thinks fit.

(Amended 90 of 1993 s. 5; 3 of 2002 s. 15)

Section:	88	<b>Vehicle examiners and vehicle examination centre</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner-
  - (a) shall appoint vehicle examiners; and
  - (b) may authorize in writing any vehicle examiner to issue suspension of vehicle licence orders, for the purposes of this Ordinance.
- (2) The Commissioner may, in writing, designate any place as a vehicle examination centre and may impose such conditions relating to that designation and to the operation of that vehicle examination centre as he thinks fit. (Replaced 7 of 1992 s. 6)
- (3) Where a place is designated as a vehicle examination centre under subsection (2) the Commissioner may by agreement in writing with any person authorize that person to operate that place as a vehicle examination centre subject to such terms and conditions as the Commissioner may specify in the agreement. (Added 7 of 1992 s. 6)
- (4) Without affecting the generality of subsection (3), an agreement in writing under that subsection may include a condition that the Commissioner may suspend or revoke the authorization of any person to operate a place as a vehicle examination centre. (Added 7 of 1992 s. 6)
- (5) The Commissioner may, if he considers the public interest so requires, give directions of a general character in writing to any person authorized under subsection (3) in relation to the operation of a place as a vehicle examination centre and that person shall comply with those directions. (Added 7 of 1992 s. 6)
- (6) A certificate in writing purporting to be under the hand of the Commissioner setting forth the amount of any money due or payable to the Government by the person authorized under subsection (3) under the agreement

shall be prima facie evidence of the facts certified therein. Without prejudice to any other remedy of the Government for the recovery of such money under the agreement, the same may be recovered as a debt due to the Government. (Added 7 of 1992 s. 6. Amended 3 of 2002 s. 15)

- (7) No proceedings in tort shall lie against the Government or any public officer by reason only of the fact that a place is designated as a vehicle examination centre under subsection (2). (Added 7 of 1992 s. 6. Amended 3 of 2002 s. 15)

Part:	9A	<b>Examination of Private Cars and Light Goods Vehicles at Car Testing Centres*</b>	E.R. 2 of 2012	02/08/2012
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(Part 9A added 65 of 1985 s. 3)

**Note:**

\* (Amended 36 of 1990 s. 3)

Section:	88A	<b>Interpretation</b>	E.R. 1 of 2013	25/04/2013
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In this Part and Schedule 8, unless the context otherwise requires- (Amended 3 of 1991 s. 11)

**approved car tester** (認可車輛測試員) means a person authorized in writing by the Commissioner under section 88F(1)(d);

**car testing centre** (車輛測試中心) means a place designated as a car testing centre under section 88C(1);

**certificate of roadworthiness** (車輛宜於道路上使用證明書) means a certificate issued by a car testing centre in the form specified by the Commissioner in respect of a private car or light goods vehicle and indicating that the private car or light goods vehicle was found to be roadworthy upon examination at the car testing centre; (Amended 36 of 1990 s. 4)

**code of practice** (實務守則) means a code of practice issued and from time to time revised under section 88F(1)(a);

**designation** (指定) means a designation of a car testing centre under section 88C(1);

**proprietor** (東主), in relation to a car testing centre, means a person having the conduct or control of it, whether or not he is a natural person and whether or not he is the owner;

**responsible person** (負責人) means a person authorized in writing by the Commissioner under section 88F(1)(e).

(Amended E.R. 1 of 2013)

Section:	88B	<b>Examination of private cars before licensing</b>	E.R. 2 of 2012	02/08/2012
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- (1) Before licensing a private car or a light goods vehicle, the Commissioner may, for the purpose of ascertaining whether the private car or the light goods vehicle is roadworthy, require the registered owner to have the private car or the light goods vehicle examined at a car testing centre. (Amended 36 of 1990 s. 5)
- (2) Subsection (1) applies to any private car manufactured not less than 6 years before the date with effect from which the private car is to be licensed, and to any light goods vehicle manufactured not less than 1 year before the date with effect from which the light goods vehicle is to be licensed. (Amended 36 of 1990 s. 5; L.N. 266 of 1992; L.N. 163 of 1993)
- (3) The Secretary may by order published in the Gazette amend subsection (2) by substituting for the period or periods of years specified therein another period or periods and he may by such order make different provision for private cars and light goods vehicles. (Amended 36 of 1990 s. 5; 90 of 1993 s. 6; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
- (4) The Commissioner may exercise his powers under subsection (1) in relation to-
  - (a) all private cars or light goods vehicles;
  - (b) any class or description of such cars or vehicles;
  - (c) a particular private car or light goods vehicle. (Added 36 of 1990 s. 5)

Section:	88C	<b>Authorized car testing centres</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner may, in writing, designate any place (including any place designated under section 77C(1) as a vehicle emission testing centre) as a car testing centre and may impose such conditions relating to that designation as he thinks fit. (Amended 3 of 1991 s. 12)
- (2) Where a place is designated as a car testing centre under subsection (1), such designation-
  - (a) shall authorize the person specified in the designation as the proprietor of that place, to operate that place as a car testing centre in accordance with-
    - (i) any code of practice for the time being in force issued, and from time to time revised, by the Commissioner under section 88F(1)(a);
    - (ii) Schedule 8; and
    - (iii) such conditions as may be specified by the Commissioner in the designation;
  - (b) shall not be valid except on payment of the fee specified in paragraph 6(a) of Schedule 8.
- (3) Without prejudice to the generality of subsection (2)(a)-
  - (a) the fees specified in paragraph 6(b) of Schedule 8 shall be payable by the registered owner of a private car or a light goods vehicle to the proprietor of a car testing centre in respect of an examination carried out under this Part; (Amended 36 of 1990 s. 6)
  - (b) the conditions that may be specified in a designation under subsection (2)(a)(iii) may include conditions relating to-
    - (i) the supply by the Commissioner to the proprietor specified in the designation of any document or form to be used for the purposes of this Part; and
    - (ii) the fees as specified in paragraph 6(c) of the Schedule 8, payable by that proprietor in respect of such supply and the refund of such fees.
- (4) The Commissioner shall cause notice of the designation of a place as a car testing centre to be published in the Gazette.
- (5) Subject to section 88D, a designation-
  - (a) shall be valid for a period of 3 years from such date as shall be specified in the designation;
  - (b) may, on application made to the Commissioner not less than 6 months before the date of its expiration and on pay-ment of the fee specified in paragraph 6(a) of the Schedule 8, be renewed in writing by the Commissioner.
- (6) A renewal of a designation under subsection (5) shall-
  - (a) not be valid except on payment of the fee specified in paragraph 6(a) of Schedule 8; and
  - (b) be valid for a period of 3 years from such date as the Commissioner shall specify in the renewal.

Section:	88D	<b>Revocation of designation</b>	E.R. 2 of 2012	02/08/2012
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- (1) If in the case of any proprietor of a car testing centre it appears to the Commissioner that-
  - (a) there has been a breach of-
    - (i) the code of practice;
    - (ii) Schedule 8;
    - (iii) the conditions specified in the designation under section 88C; or
  - (b) certificates of roadworthiness have been improperly issued; or
  - (c) certificates of roadworthiness have been incorrectly dated for fraudulent purposes; or
  - (d) the proprietor has ceased to trade, or is being wound up or grounds exist for a creditor to present a bankruptcy petition against him, (Amended 37 of 1998 s. 6)

the Commissioner may serve on the proprietor a notice stating his intention to revoke the designation and the ground or grounds therefor and requiring the proprietor to show cause in writing, within 28 days after the service of such notice, why the designation should not be so revoked.
- (2) Where after a notice is served on a proprietor under subsection (1)-
  - (a) the proprietor does not show cause why the designation should not be revoked; or
  - (b) the Commissioner, having considered any representations made by the proprietor, is of the opinion that the proprietor has not shown good cause why the designation should not be revoked,

the Commissioner may, by notice in writing served on the proprietor, revoke the designation with effect from such date being not less than 14 days after service of the notice as he shall specify in the notice.
- (3) Any proprietor of a car testing centre aggrieved by a decision of the Commissioner under subsection (2) to

revoke the designation of such car testing centre may appeal to a Transport Tribunal against such decision within 14 days of receiving notice of the decision and on any such appeal a Transport Tribunal may affirm, amend or reverse such decision.

- (4) A decision of the Commissioner appealed against under subsection (3) shall not have effect pending the determination of the appeal by a Transport Tribunal.
- (5) The Commissioner shall cause notice of the revocation of a designation under subsection (2) to be published in the Gazette as soon as practicable after the revocation has come into effect.
- (6) No compensation shall be payable in respect of the revocation of a designation under this section.

Section:	88E	<b>Termination of designation</b>	E.R. 2 of 2012	02/08/2012
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- (1) Notwithstanding section 88D, a designation in respect of a car testing centre shall be terminated in the following cases-
  - (a) where the Commissioner serves written notice on the proprietor of not less than 6 months, on the expiration of the period of such notice;
  - (b) where the proprietor serves written notice on the Commissioner of not less than 3 months, on the expiration of the period of such notice.
- (2) Where a designation is terminated under this section, the Commissioner may make a refund in respect of any fee paid under section 88C of an amount not exceeding the sum obtained by dividing the amount of the fee paid by 36 and multiplying the result by the number of months in the unexpired period of the designation.
- (3) The Commissioner shall cause a copy of every notice served under subsection (1) to be published in the Gazette.

Section:	88F	<b>Ancillary powers of Commissioner</b>	E.R. 2 of 2012	02/08/2012
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- (1) For the purposes of this Part the Commissioner may-
  - (a) issue and from time to time revise a code of practice setting out the practice and procedure to be followed and specifying the equipment to be used for the examination of private cars and light goods vehicles at car testing centres;
  - (b) specify any form or other document;
  - (c) conduct training courses for the purposes of paragraph (d);
  - (d) authorize in writing persons to act as approved car testers who have attended and completed a training course conducted by the Commissioner for the purpose of training persons to be approved car testers;
  - (e) authorize in writing persons to act as responsible persons at car testing centres in respect of the supervision of examinations of private cars or light goods vehicles carried out under this Part.
- (2) A code of practice issued, and from time to time revised, under subsection (1) may specify the circumstances in which the fees set out in paragraph 6(b) of Schedule 8 (as being fees payable to the proprietor of a car testing centre by the registered owner of a private car or a light goods vehicle in respect of an examination carried out under this Part) are to be waived, reduced or refunded.

(Amended 36 of 1990 s. 7)

Section:	88G	<b>Power to enter and inspect records, equipment, etc.</b>	E.R. 2 of 2012	02/08/2012
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- (1) Any public officer authorized in writing by the Commissioner for the purposes of this section, may, during the hours when a car testing centre is open for business, enter any car testing centre and on production of his authorization-
  - (a) inspect and take copies of any record, book or document kept or maintained in respect of the examination of private cars and light goods vehicles;
  - (b) inspect or test any equipment used for the examination of private cars and light goods vehicles; and
  - (c) observe and monitor the examination of any private car or light goods vehicle. (Amended 36 of 1990 s. 8)
- (2) Any person who obstructs an officer in the execution of his duty under subsection (1) commits an offence and is liable to a fine of \$5000 and imprisonment for 6 months.

Section:	88H	<b>Amendment of Schedule 8</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Chief Executive may by order published in the Gazette amend Schedule 8. (Amended 3 of 2002 s. 15)
- (2) The Financial Secretary may by order published in the Gazette amend the fees set out in paragraph 6 of Schedule 8.

(Replaced 39 of 1995 s. 11)

Section:	88I	<b>Protection of Government and public officers</b>	E.R. 2 of 2012	02/08/2012
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No proceedings in tort shall lie against the Government or any public officer by reason only of the fact that a place is designated as a car testing centre under this Part.

(Amended 3 of 2002 s. 15)

Part:	9B	<b>Designated Driving Schools</b>	E.R. 2 of 2012	02/08/2012
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(Part 9B added 27 of 1989 s. 2)

Section:	88J	<b>Interpretation</b>	E.R. 2 of 2012	02/08/2012
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In this Part, unless the context otherwise requires-

**course certificate** (課程證書) means a certificate in a form specified by the Commissioner indicating that a person has completed a driving instruction course at a driving school;

**driving school** (駕駛學校) means a place designated as a driving school under section 88K(1) and in respect of which such designation is in force; and

**proprietor** (東主), in relation to a driving school, means a person having the conduct or control of it, whether or not he is the owner.

(Added 27 of 1989 s. 2)

Section:	88K	<b>Authorized driving school</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner may, in writing, designate any place as a driving school and may impose such conditions relating to that designation as he thinks fit.
- (2) Where a place is designated as a driving school under subsection (1), such designation-
  - (a) shall authorize the person specified in the designation as the proprietor of that place, to operate that place as a driving school in accordance with-
    - (i) Schedule 9; and
    - (ii) such conditions as may be specified by the Commissioner in the designation; and
  - (b) shall not be valid except on payment of the fee specified in Schedule 9.
- (3) Without prejudice to the generality of subsection (2)(a)-
  - (a) the fees charged by the proprietor of a driving school for a diving instruction course and the issue of a course certificate or a duplicate copy of a course certificate in respect of motor cycles or motor tricycles shall be subject to the approval of the Commissioner;
  - (b) the conditions that may be specified in a designation under subsection (2)(a)(ii) may include conditions relating to the issue of a course certificate or duplicate copy of a course certificate in respect of motor cycles or motor tricycles.
- (4) The Commissioner shall cause notice of a designation under subsection (1) to be published in the Gazette.
- (5) Subject to section 88L, a designation under subsection (1)-
  - (a) shall be valid for a maximum period of 5 years from such date as shall be specified in the designation;
  - (b) may, on application made to the Commissioner not less than 3 months before the date of its expiration and on payment of the fee specified in Schedule 9, be renewed in writing by the Commissioner.
- (6) A renewal of a designation under subsection (5) shall-
  - (a) be valid for a maximum period of 5 years from such date as the Commissioner shall specify; and
  - (b) not be valid except on payment of the fee specified in Schedule 9.
- (7) The Commissioner may, if he considers that it would be in the public interest to do so, exempt any person from

the payment of the fee specified in Schedule 9.

(Added 27 of 1989 s. 2)

Section:	88L	<b>Revocation of designation</b>	E.R. 2 of 2012	02/08/2012
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- (1) If in the case of any proprietor of a driving school it appears to the Commissioner that-
  - (a) there has been a breach of-
    - (i) Schedule 9; or
    - (ii) the conditions specified in the designation under section 88K; or
  - (b) any course certificate has been improperly issued; or
  - (c) the particulars on any course certificate have been incorrectly stated for fraudulent purposes; or
  - (d) the proprietor has ceased to trade, or is being wound up or grounds exist for a creditor to present a bankruptcy petition against him, (Amended 37 of 1998 s. 6)the Commissioner may serve on the proprietor a notice stating his intention to revoke the designation and the ground or grounds therefor and requiring the proprietor to show cause in writing, within 28 days after the service of such notice, why the designation should not be so revoked.
- (2) Where after a notice is served on a proprietor of a driving school under subsection (1)-
  - (a) the proprietor does not show cause why the designation should not be revoked; or
  - (b) the Commissioner, having considered any representations made by the proprietor, is of the opinion that the proprietor has not shown good cause why the designation should not be revoked,the Commissioner may, by notice in writing served on the proprietor, revoke the designation with effect from such date being not less than 14 days after service of the notice as he shall specify in the notice.
- (3) Any proprietor of a driving school aggrieved by a decision of the Commissioner under subsection (2) may appeal to a Transport Tribunal against such decision within 14 days of receiving notice of the decision and on any such appeal a Transport Tribunal may affirm, amend or reverse such decision.
- (4) A decision of the Commissioner appealed against under subsection (3) shall not have effect pending the determination of the appeal by a Transport Tribunal.
- (5) The Commissioner shall cause notice of the revocation of a designation under subsection (2) to be published in the Gazette as soon as practicable after the revocation has come into effect.
- (6) No compensation shall be payable in respect of the revocation of a designation under this section.
- (7) Where a designation is revoked under this section, any fee paid under section 88K(2) or (6) shall not be refunded.
- (8) Within 28 days after a revocation under this section has come into effect, the driving school shall make a refund of the fee paid by a person taking a driving instruction course to that person, and the amount to be refunded shall be an amount obtained by dividing the fee paid by the total number of prescribed parts of a course and multiplying the result by the number of prescribed parts of a course which has not been given.
- (9) A revocation under this section shall not affect the validity of course certificates properly issued.

(Added 27 of 1989 s. 2)

Section:	88M	<b>Termination of designation</b>	E.R. 2 of 2012	02/08/2012
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- (1) Notwithstanding section 88L, a designation in respect of a driving school shall, if the proprietor serves written notice of termination on the Commissioner of not less than 3 months, be terminated on the expiration of the period of such notice.
- (2) Where a designation is terminated under this section, the Commissioner may make a refund in respect of any fee paid under section 88K of an amount not exceeding the sum obtained by dividing the amount of the fee paid by the number of complete months of the designation and multiplying the result by the number of complete months in the unexpired period of the designation.
- (3) Within 28 days after a designation is terminated under this section, the driving school shall make a refund of the fee paid by a person taking a driving instruction course to that person, and the amount to be refunded shall be an amount obtained by dividing the fee paid by the total number of prescribed parts of a course and multiplying the result by the number of prescribed parts of a course which has not been given.
- (4) The termination of a designation under this section shall not affect the validity of course certificates properly issued.

(Added 27 of 1989 s. 2)

Section:	88N	<b>Ancillary powers of the Commissioner</b>	E.R. 2 of 2012	02/08/2012
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For the purposes of this Part the Commissioner-

- (a) may issue, and may from time to time revise, a code of practice setting out the requirements, procedure and standards in respect of the content and duration of driving instruction courses, the facilities to be provided, the safety measures to be adopted and the equipment to be used in a driving school and any other matter he thinks fit; and
- (b) may specify any form, including the form of any course certificate or other document; and
- (c) may authorize in writing responsible persons to sign course certificates.

(Added 27 of 1989 s. 2)

Section:	88O	<b>Power to enter and inspect</b>	E.R. 2 of 2012	02/08/2012
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- (1) Any public officer authorized in writing by the Commissioner for the purposes of this section, may, during the hours when a driving school is open for business, enter the driving school and on production of his authorization-
  - (a) observe and monitor the giving of driving instruction courses;
  - (b) inspect the driving school and ascertain whether there has been a breach of-
    - (i) Schedule 9; or
    - (ii) the conditions specified in the designation under section 88K; and
  - (c) inspect or test any motor vehicle or equipment used for the giving of driving instruction courses.
- (2) If it is made to appear to a magistrate by information upon oath that there is reason to believe that there has been a breach of-
  - (a) Schedule 9; or
  - (b) the conditions specified in the designation under section 88K, the magistrate may issue a warrant authorizing any public officer to enter and search any driving school.
- (3) A public officer who entered a driving school in pursuance of a warrant issued under subsection (2) may inspect and make copies of any record, book or document kept or maintained in respect of the giving of driving instruction courses.

(Added 27 of 1989 s. 2)

Section:	88P	<b>Amendment of Schedule 9</b>	E.R. 2 of 2012	02/08/2012
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The Chief Executive may by order published in the Gazette amend Schedule 9.

(Amended 3 of 2002 s. 15)

Section:	88Q	<b>Protection of Government and public officers</b>	E.R. 2 of 2012	02/08/2012
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No proceedings in tort shall lie against the Government or any public officer by reason only of the fact that a place is designated as a driving school under this Part.

(Amended 3 of 2002 s. 15)

Part:	10	<b>Suspension of Licences of Motor Vehicles</b>	E.R. 2 of 2012	02/08/2012
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Section:	89	<b>Interpretation in this Part</b>	E.R. 2 of 2012	02/08/2012
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In this Part, unless the context otherwise requires, *fixed penalty* (定額罰款) means, in relation to an offence specified in Schedule 4, the fixed penalty specified for that offence in the Schedule to the Fixed Penalty (Criminal Proceedings) Ordinance (Cap 240).

Section:	90	<b>Notice of intention to suspend on the conviction of a driver</b>	E.R. 2 of 2012	02/08/2012
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- (1) Where a person has been convicted of an offence specified in Schedule 4, or the fixed penalty for such an offence has been paid, the Commissioner shall, within 14 days after the date of the conviction or payment of the fixed penalty, cause a notice to be served on the registered owner of the motor vehicle in respect of which the offence was committed. (Amended L.N. 95 of 1993)
- (2) A notice served under subsection (1) shall-
  - (a) specify-
    - (i) the offence of which the person was convicted or for which the fixed penalty has been paid and the date of conviction or payment of the fixed penalty;
    - (ii) the date on which the offence took place;
    - (iii) the time when and place where the offence occurred;
    - (iv) the registration mark of the motor vehicle; and
    - (v) the name of the person who committed the offence;
  - (b) notify the registered owner that the Commissioner may under section 93 suspend the vehicle licence for the period specified in column 3 or 4 of Schedule 4; and
  - (c) notify the registered owner that he may, within 14 days after the date of service of the notice-
    - (i) make representations in writing to the Commissioner showing cause why the vehicle licence should not be suspended; or
    - (ii) apply in writing to the Commissioner for a hearing before a Transport Tribunal to show cause why the vehicle licence should not be suspended.
- (3) In the event of an appeal against conviction, the notice served under subsection (1) shall be of no effect, and, if the appeal is abandoned or the conviction is not quashed on the appeal, a further notice in accordance with this section shall be served on the registered owner of the motor vehicle within 14 days after the appeal was abandoned or finally determined.

Section:	91	<b>Hearing to show cause why vehicle licence should not be suspended</b>	E.R. 2 of 2012	02/08/2012
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- (1) As soon as practicable after he receives an application from the registered owner of a motor vehicle for a hearing before a Transport Tribunal, the Commissioner shall cause a notice to be served on the owner specifying the place where, time when and date on which he may appear before a Transport Tribunal to show cause why the vehicle licence should not be suspended.
- (2) The Commissioner shall, so far as practicable, ensure that the date of the hearing before the Transport Tribunal is not less than 10 days nor more than 30 days after the date of the notice served on the registered owner under subsection (1).
- (3) A Transport Tribunal may postpone a hearing if it thinks fit and where a hearing is postponed, the Commissioner shall cause a notice to be served on the registered owner specifying the date to which the hearing has been postponed.
- (4) If the registered owner of a motor vehicle does not appear before the Transport Tribunal on the date of the hearing notified to him in a notice under subsection (1) or (3), his application for a hearing shall be deemed to have been withdrawn.

Section:	92	<b>Decision of Tribunal</b>	E.R. 2 of 2012	02/08/2012
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- (1) A Transport Tribunal shall after considering-
  - (a) any evidence received by it, whether tendered on behalf of the registered owner of the motor vehicle or otherwise, which it considers relevant to the hearing;
  - (b) any representations made by or on behalf of the registered owner of the motor vehicle, whether orally or in writing;
  - (c) any representations made by or on behalf of the Commissioner, whether orally or in writing,
 determine whether or not the registered owner has shown cause why the vehicle licence should not be suspended.
- (2) The decision of the Transport Tribunal under subsection (1) shall be final.
- (3) If the Transport Tribunal decides that the registered owner has shown cause why the vehicle licence should not



be suspended the Commissioner shall notify the registered owner accordingly.

Section:	93	<b>Suspension of vehicle licence and delivery of vehicle into custody of Commissioner</b>	E.R. 2 of 2012	02/08/2012
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- (1) If-
  - (a) no written representations are made by or on behalf of the registered owner of a motor vehicle, and no application is made for a hearing before a Transport Tribunal, within the time notified in a notice served under section 90(1); or
  - (b) an application for a hearing before a Transport Tribunal is deemed to have been withdrawn under section 91(4),
 the Commissioner shall suspend the vehicle licence for the appropriate period specified in column 3 or 4 of Schedule 4.
- (2) If a Transport Tribunal decides that the registered owner of a motor vehicle has not shown cause why the vehicle licence should not be suspended the Commissioner shall suspend it for the appropriate period specified in column 3 or 4 of Schedule 4.
- (3) Where the Commissioner suspends a vehicle licence under subsection (1) or (2), he shall cause a notice to be served on the registered owner.
- (4) A notice under subsection (3) shall-
  - (a) specify-
    - (i) the registration mark of the motor vehicle the licence of which is suspended; and
    - (ii) the period during which the vehicle licence shall be suspended and the date of commencement of the suspension; and
  - (b) direct the registered owner to deliver the motor vehicle into the custody of the Commissioner on the day and at the time and place specified in the notice.
- (5) The Commissioner shall keep a record of every suspension of a vehicle licence under subsection (1) or (2) in such form as he thinks fit.

Section:	94	<b>Penalty payable if vehicle not delivered into custody</b>	E.R. 2 of 2012	02/08/2012
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- (1) If without reasonable excuse, a motor vehicle is not delivered into the custody of the Commissioner in accordance with a notice served under section 93, the registered owner shall be liable to pay to the Government a penalty of \$200 for each day or part thereof while the suspension of the vehicle licence continues in force and the motor vehicle is not in the custody of the Commissioner or the Commissioner of Police under section 95.
- (2) Any penalty due under subsection (1) may be recovered from the registered owner by civil proceedings as a debt due to the Government. (Amended 3 of 2002 s. 15)

Section:	95	<b>Seizure and removal of vehicle</b>	E.R. 2 of 2012	02/08/2012
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- (1) If a motor vehicle has not been delivered into the custody of the Commissioner at the expiration of 7 days after the date specified in a notice served under section 93, any police officer may seize the motor vehicle.
- (2) Subject to subsection (3), a police officer who has seized a motor vehicle under subsection (1) shall deliver it forthwith into the custody of the Commissioner at the place specified in the notice under section 93.
- (3) If at the time when a motor vehicle is seized it is not practicable for a police officer to deliver it directly to the place specified in the notice under section 93, he may take the motor vehicle to a police station, and thereafter a police officer shall deliver it to the place so specified as soon as practicable and in any event not later than 7 days after the seizure.
- (4) For the purpose of seizing a motor vehicle under this section, a police officer may-
  - (a) order any person who is in or on the motor vehicle to alight from it;
  - (b) order any person who appears to him to be in possession of any keys to the motor vehicle to give them to him or to any other person; and
  - (c) enter and search any premises or place if he knows or has reason to suspect that the motor vehicle is in or on such premises or place.
- (5) A police officer may use such force as is reasonably necessary for the purpose of entering or searching any premises or place under subsection (4)(c) or of seizing or removing any motor vehicle from such premises or

place under this section.

Section:	96	<b>Forfeiture and disposal of vehicle</b>	E.R. 2 of 2012	02/08/2012
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- (1) If a motor vehicle is-
  - (a) delivered into the custody of the Commissioner in accordance with a notice served under section 93; or
  - (b) seized and delivered into his custody under section 95,
 the Commissioner shall, within 10 days of its delivery into his custody, serve on the registered owner a notice in writing in accordance with subsection (2).
- (2) A notice under subsection (1) shall-
  - (a) specify-
    - (i) the date of delivery into the custody of the Commissioner; and
    - (ii) the place at which the motor vehicle is being held; and
  - (b) notify the registered owner that at the expiry of the period of suspension the Commissioner will return the motor vehicle to the registered owner if, not later than 30 days after the expiry of the period of suspension, the registered owner-
    - (i) claims the motor vehicle; and
    - (ii) pays to the Commissioner any penalty payable under section 94 and, if the vehicle was seized by a police officer under section 95 the removal charge specified in Schedule 5; and
  - (c) notify the registered owner of the effect of subsection (4).
- (3) If the registered owner claims the motor vehicle within 30 days after the expiry of the period of suspension of the licence, the Commissioner shall, on payment of any penalty payable under section 94 and, if the vehicle was seized by a police officer under section 95, of the removal charge specified in Schedule 5, return the motor vehicle to the registered owner.
- (4) If the registered owner does not make a claim for the return within 30 days after the expiry of the period of suspension, the motor vehicle shall thereupon be forfeited to the Government and may be sold or otherwise disposed of in such manner as the Commissioner thinks fit. (Amended 3 of 2002 s. 15)

Section:	97	<b>Record and certificate of alleged offences</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner shall keep a record of the registration mark of every motor vehicle in connection with which any person is alleged to have committed an offence specified in Schedule 4.
- (2) The Commissioner shall, on application made to him in such manner as he may determine, issue a certificate stating whether or not at the time of the issue of the certificate any person is, according to the record maintained under subsection (1), alleged to have committed an offence specified in Schedule 4 in connection with the motor vehicle bearing the registration mark specified in the application.
- (3) A certificate issued under subsection (2) shall be valid for 72 hours from the time of issue.

Section:	98	<b>Commissioner of Police to supply information for the record</b>	E.R. 2 of 2012	02/08/2012
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For the purposes of section 97 the Commissioner of Police shall notify the Commissioner of every alleged offence specified in Schedule 4.

Section:	99	<b>Removal of registration mark from the record</b>	E.R. 2 of 2012	02/08/2012
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Where a person who is alleged to have committed an offence specified in Schedule 4 in connection with a motor vehicle the registration mark of which has been recorded under section 97-

- (a) is not prosecuted for that offence;
- (b) is found not guilty of that offence;
- (c) has his conviction for that offence quashed on appeal,

the Commissioner shall forthwith remove from the record the registration mark of the motor vehicle concerned.

Section:	100	<b>Application of sections 90 to 96</b>	E.R. 2 of 2012	02/08/2012
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Expanded Cross Reference:  
90, 91, 92, 93, 94, 95, 96

- (1) Sections 90 to 96 shall not apply or shall cease to apply where a motor vehicle is sold or otherwise disposed of and the new registered owner is, at the time of delivery of notice of transfer of ownership in accordance with the regulations, in possession of a valid certificate issued by the Commissioner under section 97 to the effect that at the time of issue, no person was alleged to have committed an offence specified in the Schedule 4 in respect of that motor vehicle. <\*Note-Exp. x-Ref: Sections 90, 91, 92, 93, 94, 95, 96 \*>
- (2) Subject to subsection (1), sections 90 to 96 shall apply notwithstanding that a transfer of the ownership of a motor vehicle has been registered by the Commissioner after a person has committed an offence specified in Schedule 4 in connection with that vehicle. <\*Note-Exp. x-Ref: Sections 90, 91, 92, 93, 94, 95, 96 \*>

Section:	101	<b>Service of notices</b>	E.R. 2 of 2012	02/08/2012
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Any notice required under this Part to be served on the registered owner of a motor vehicle may be served on him in person or by forwarding it by registered post or recorded mail to him at the address shown in the register of motor vehicles maintained by the Commissioner under this Ordinance.

Section:	102	<b>Amendment of Schedule 4</b>	E.R. 2 of 2012	02/08/2012
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The Chief Executive in Council may by order published in the Gazette amend Schedule 4.

(Amended 3 of 2002 s. 15)

Part:	10A	<b>Driving Improvement Schools</b>	E.R. 2 of 2012	02/08/2012
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(Part 10A added 3 of 2002 s. 5)

Section:	102A	<b>Interpretation</b>	E.R. 2 of 2012	02/08/2012
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In this Part and Schedule 12, unless the context otherwise requires-  
**attendance certificate** (修習證書)-

- (a) means a certificate issued under section 102B(3)(b)(i) or 102E(d); and
- (b) includes, except for the purposes of section 102B(3)(b)(i) or 102E(d), a duplicate of the certificate;

**code of practice** (實務守則) means a code of practice issued under section 102E(a) as it is in force from time to time;

**course certificate** (課程證書)-

- (a) means a certificate issued under section 102B(3)(b)(ii) or 102E(d); and
- (b) includes, except for the purposes of section 102B(3)(b)(ii) or 102E(d), a duplicate of the certificate;

**designation** (指定) means a designation made under section 102B(1);

**proprietor** (東主), in relation to a driving improvement school, means a person having the conduct or control of it, whether or not he is the owner.

Section:	102B	<b>Commissioner may designate driving improvement schools</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner may, in writing, designate any place as a driving improvement school and may impose such conditions relating to the designation as he considers appropriate.
- (2) Where a place is designated as a driving improvement school under subsection (1), such designation-
  - (a) shall authorize the person specified in the designation as the proprietor to operate that place as a driving improvement school in compliance with-
    - (i) Schedule 12;
    - (ii) a code of practice;
    - (iii) the condition set out in subsection (3); and

- (iv) such conditions as may be specified by the Commissioner in the designation; and
- (b) shall not be valid except on payment of the fee determined under Schedule 12.
- (3) The condition referred to in subsection (2)(a)(iii) is that the proprietor of a driving improvement school shall ensure that-
  - (a) driving improvement courses are provided by the school in accordance with the code of practice-
    - (i) to a holder of a driving licence other than-
      - (A) a learner's driving licence;
      - (B) a temporary driving licence; or
      - (C) a driving licence to drive Government vehicles;
    - (ii) to a person who is ordered under section 72A(1)(b), (1A) or (9A), or is required under section 8AA(1) of or ordered under section 8AA(6) of the Road Traffic (Driving-offence Points) Ordinance (Cap 375), to attend and complete a driving improvement course; and
    - (iii) to a person who is disqualified until he has attended and completed a driving improvement course at his own cost; and (Replaced 23 of 2008 s. 21)
  - (b) where a person attends and completes a driving improvement course at the school-
    - (i) an attendance certificate in a form specified by the Commissioner is issued by the school to the person immediately thereafter, indicating that the person has attended and completed the course;
    - (ii) a course certificate in a form specified by the Commissioner is issued by the school, on the Commissioner's direction, to the person, indicating that the person has attended and completed the course in accordance with the code of practice.
- (4) The Secretary may by notice published in the Gazette amend subsection (3)(a)(i)(A), (B) or (C). (Amended L.N. 106 of 2002; L.N. 130 of 2007; 23 of 2008 s. 21; 6 of 2012 s. 2)
- (5) Without prejudice to the generality of subsection (2)(a)-
  - (a) the Commissioner may from time to time determine the maximum fees that may be charged by the proprietor of a driving improvement school for a driving improvement course and the issue of an attendance certificate or course certificate;
  - (b) the fees charged by the proprietor of a driving improvement school for a driving improvement course and the issue of an attendance certificate or course certificate shall not exceed their respective maximum fees as determined under paragraph (a);
  - (c) the conditions that may be specified in a designation under subsection (2)(a)(iv) may include conditions relating to the issue of an attendance certificate or course certificate.
- (6) The Commissioner shall cause notice of-
  - (a) a designation that he has made;
  - (b) the maximum fees that he has determined under subsection (5)(a), to be published in the Gazette.
- (7) A notice under subsection (6) is not subsidiary legislation.
- (8) Subject to sections 102C and 102D, a designation-
  - (a) shall be valid for a maximum period of 3 years from such date as shall be specified in the designation;
  - (b) may, on the application of the proprietor of a driving improvement school made to the Commissioner at least 3 months before the date of its expiration, be renewed in writing by the Commissioner.
- (9) Where a designation is renewed under subsection (8)(b), the renewed designation shall-
  - (a) be valid for a maximum period of 3 years from such date as shall be specified in the renewed designation; and
  - (b) not be valid except on payment of the fee determined under Schedule 12.
- (10) The Commissioner may waive in whole or in part the payment of a fee under subsection (2)(b) or (9)(b) if he considers that it is in the public interest to do so.

Section:	102C	<b>Revocation of designation</b>	E.R. 2 of 2012	02/08/2012
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- (1) If it appears to the Commissioner that any proprietor of a driving improvement school-
  - (a) has breached-
    - (i) Schedule 12;
    - (ii) a code of practice; or
    - (iii) any of the conditions referred to in section 102B(2)(a)(iii) and (iv);
  - (b) has issued any attendance certificate or course certificate improperly;

- (c) has entered any incorrect particulars on an attendance certificate or course certificate for fraudulent purposes; or
  - (d) has ceased to have the conduct or control of the school, or is being wound up or grounds exist for a creditor to present a bankruptcy petition against him,
- the Commissioner may serve on the proprietor a notice in writing-
- (i) stating the Commissioner's intention to revoke the designation in respect of the school and the ground or grounds therefor; and
  - (ii) stating that the proprietor may make representations in writing, within 28 days after the service of the notice, why the designation should not be so revoked.
- (2) Where-
- (a) a notice has been served on the proprietor of a driving improvement school under subsection (1); and
  - (b) either-
    - (i) the proprietor does not make any representations in writing why the designation should not be revoked within the period specified in subsection (1)(ii); or
    - (ii) the Commissioner, having considered any such representations made by the proprietor, considers that the proprietor has not shown good cause why the designation should not be revoked,
- the Commissioner may, by notice in writing served on the proprietor, revoke the designation with effect from such date being not less than 14 days after service of the notice as he shall specify in the notice.
- (3) The proprietor of a driving improvement school aggrieved by a decision of the Commissioner under subsection (2) may appeal to a Transport Tribunal against the decision within 14 days after receiving notice of the decision, and on any such appeal, a Transport Tribunal may affirm, amend or reverse the decision.
  - (4) A decision of the Commissioner that is appealed against under subsection (3) shall not have effect pending the determination of the appeal.
  - (5) The Commissioner shall cause notice of the revocation of a designation under subsection (2) to be published in the Gazette as soon as practicable after the revocation has come into effect.
  - (6) A notice under subsection (5) is not subsidiary legislation.
  - (7) No compensation is payable to the proprietor of a driving improvement school in respect of the revocation of a designation under subsection (2) which relates to the school.
  - (8) Where a designation is revoked under subsection (2), any fee paid under section 102B(2)(b) or (9)(b) shall not be refunded.
  - (9) Within 28 days after the revocation of a designation under subsection (2) has come into effect, the last proprietor of the former driving improvement school to which the designation relates shall refund a person the fee he has paid for taking a driving improvement course at the school for any part of the course which has not been completed, and the amount to be refunded shall be the amount obtained by dividing the fee paid by the total number of parts of a course and multiplying the result by the number of parts of a course which has not been given.
  - (10) The revocation of a designation under subsection (2) does not affect the validity of attendance certificates or course certificates issued lawfully by the former driving improvement school to which the designation relates.

Section:	102D	<b>Termination of designation</b>	E.R. 2 of 2012	02/08/2012
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- (1) Notwithstanding section 102C, a designation in respect of a driving improvement school shall, if the proprietor of the school serves notice in writing of termination on the Commissioner of not less than 3 months, be terminated on the expiration of the period of the notice.
- (2) Upon the termination of a designation under subsection (1), the Commissioner may make a refund in respect of any fee paid under section 102B(2)(b) or (9)(b) of an amount not exceeding the amount obtained by dividing the amount of the fee paid by the number of complete months of the designation and multiplying the result by the number of complete months in the unexpired period of the designation.
- (3) Within 28 days after a designation is terminated under subsection (1), the last proprietor of the former driving improvement school to which the designation relates shall refund a person the fee he has paid for taking a driving improvement course at the school for any part of the course which has not been completed, and the amount to be refunded shall be the amount obtained by dividing the fee paid by the total number of parts of a course and multiplying the result by the number of parts of a course which has not been given.
- (4) The termination of a designation under subsection (1) does not affect the validity of attendance certificates or course certificates issued lawfully by the former driving improvement school to which the designation relates.

Section:	102E	<b>Ancillary powers of Commissioner</b>	E.R. 2 of 2012	02/08/2012
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For the purposes of this Part, the Commissioner may-

- (a) issue, and from time to time revise, a code of practice setting out-
  - (i) the requirements, procedures and standards in respect of the content and duration of driving improvement courses;
  - (ii) the requirements and procedures for providing information by a driving improvement school to the Commissioner in respect of a person's completion of driving improvement courses;
  - (iii) the facilities to be provided, the safety measures to be adopted and the equipment to be used in a driving improvement school;
  - (iv) the requirements and procedures for issuing an attendance certificate or course certificate to a person who has attended and completed a driving improvement course; and
  - (v) any other matter he considers appropriate;
- (b) specify any form, including the form of any attendance certificate, course certificate or other document;
- (c) authorize in writing appropriate persons to sign attendance certificates and course certificates; and
- (d) (where a driving improvement school fails to issue an attendance certificate under section 102B(3)(b)(i) or a course certificate under section 102B(3)(b)(ii)) cause the attendance certificate or course certificate to be issued for the school, and recover any expenses incurred thereby from-
  - (i) the proprietor of the school; or
  - (ii) (where the designation in respect of the school has been revoked under section 102C(2) or terminated under section 102D(1)) the last proprietor of the school.

Section:	102F	<b>Power to enter and inspect</b>	E.R. 2 of 2012	02/08/2012
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- (1) Any public officer authorized in writing by the Commissioner for the purposes of this section may, during the hours when a driving improvement school is open for business, enter the school and, on production of his authorization-
  - (a) observe and monitor the giving of driving improvement courses;
  - (b) inspect the school and ascertain whether there has been a breach of Schedule 12, the code of practice or the conditions referred to in section 102B(2)(a)(iii) and (iv);
  - (c) inspect or test any motor vehicle or equipment used for the giving of driving improvement courses; and
  - (d) inspect and make copies of any record, book or document kept or maintained in respect of the giving of driving improvement courses.
- (2) Any person who obstructs a public officer in execution of his duty under subsection (1) commits an offence and is liable on conviction to a fine at level 2 and to imprisonment for 6 months

Section:	102G	<b>Amendment of Schedule 12</b>	E.R. 2 of 2012	02/08/2012
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The Commissioner may by order published in the Gazette amend Schedule 12.

Part:	10B	<b>Pre-service Training Schools</b>	E.R. 2 of 2012	02/08/2012
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(Part 10B added 6 of 2012 s. 8)

Section:	102H	<b>Interpretation</b>	E.R. 2 of 2012	02/08/2012
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In this Part—

**attendance certificate** (修習證書)—

- (a) means an attendance certificate issued under section 102I(3)(c)(i) or 102L(d); and
- (b) includes, except in section 102I(3)(c)(i) or 102L(d), a duplicate of the certificate;

**code of practice** (《實務守則》) means a code of practice issued under section 102L(a) as it is in force from time to time;

**course certificate** (課程證書)—

- (a) means a course certificate issued under section 102I(3)(c)(ii) or 102L(d); and
- (b) includes, except in section 102I(3)(c)(ii) or 102L(d), a duplicate of the certificate;

**designation** (指定) means a designation made under section 102I(1);

**proprietor** (東主), in relation to a pre-service training school, means a person having the conduct or control of the school, whether or not the person is the owner.

(Added 6 of 2012 s. 8)

Section:	102I	<b>Commissioner may designate pre-service training schools</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner may, in writing, designate any place as a pre-service training school for drivers of public service vehicles and may impose any conditions relating to the designation which the Commissioner considers appropriate.
- (2) If a place is designated as a pre-service training school, the designation—
  - (a) authorizes the person specified in the designation as the proprietor to operate that place as a pre-service training school to provide pre-service courses to drivers of public service vehicles; and
  - (b) is only valid on payment of the fee payable under subsection (5)(a) for the designation.
- (3) The proprietor of a pre-service training school must ensure that—
  - (a) the school is operated in compliance with—
    - (i) Schedule 13;
    - (ii) the code of practice; and
    - (iii) the conditions specified under subsection (1) in respect of the designation;
  - (b) pre-service courses are provided at the school in accordance with the code of practice—
    - (i) to a person who has applied to take a driving test in respect of public light buses, private light buses, public buses, private buses or franchised buses, or a test in respect of any combination of such types of vehicle;
    - (ii) to a person who has passed a driving test in respect of public light buses, private light buses, public buses, private buses or franchised buses, or a test in respect of any combination of such types of vehicle;
    - (iii) to a holder of a full driving licence to drive a public light bus, private light bus, public bus, private bus or franchised bus; and
    - (iv) to a person holding any other driving licence who has been permitted by the Commissioner in writing to take the course; and
  - (c) if a person attends and completes a pre-service course at the school—
    - (i) an attendance certificate in a form specified by the Commissioner is issued for the school to the person immediately afterwards, indicating that the person has attended and completed the course; and
    - (ii) a course certificate in a form specified by the Commissioner is issued for the school, on the Commissioner's direction, to the person, indicating that the person has attended and completed the course in accordance with the code of practice.
- (4) The Secretary may by order published in the Gazette amend subsection (3)(b).
- (5) The Commissioner may from time to time determine—
  - (a) the fees payable for the designation, or the renewal of the designation, of a pre-service training school; and
  - (b) the maximum fees that may be charged by the proprietor of a pre-service training school for a pre-service course and the issue of an attendance certificate or course certificate.
- (6) The fees charged by the proprietor of a pre-service training school for a pre-service course and the issue of an attendance certificate or course certificate must not exceed the maximum fees as determined under subsection (5)(b).
- (7) The Commissioner must cause notice of—
  - (a) the designation of a pre-service training school;
  - (b) the fees determined under subsection (5)(a); or
  - (c) the maximum fees determined under subsection (5)(b),
 to be published in the Gazette.
- (8) A notice under subsection (7) is not subsidiary legislation.
- (9) Subject to sections 102J and 102K, the designation of a pre-service training school—

- (a) is valid for a maximum period of 3 years from the date specified in the designation; and
  - (b) may, on the application of the proprietor of the school made to the Commissioner at least 3 months before the date of its expiration, be renewed in writing by the Commissioner.
- (10) If a designation is renewed under subsection (9)(b), the renewed designation—
- (a) is valid for a maximum period of 3 years from the date specified in the renewed designation; and
  - (b) is only valid on payment of the fee payable under subsection (5)(a) for the renewal of the designation.
- (11) The Commissioner may waive in whole or in part the payment of a fee payable under subsection (5)(a) if the Commissioner considers that it is in the public interest to do so.

(Added 6 of 2012 s. 8)

Section:	102J	<b>Revocation of designation</b>	E.R. 2 of 2012	02/08/2012
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- (1) If in respect of a pre-service training school it appears to the Commissioner that—
- (a) the proprietor has contravened section 102I(3) or (6);
  - (b) the proprietor has issued any attendance certificate or course certificate improperly;
  - (c) the proprietor has entered any incorrect particulars on an attendance certificate or course certificate for fraudulent purposes;
  - (d) the proprietor has ceased to have the conduct or control of the school; or
  - (e) the proprietor is being wound up or grounds exist for a creditor to present a bankruptcy petition against the proprietor,
- the Commissioner may serve a notice in writing on the proprietor.
- (2) A notice served under subsection (1) must—
- (a) state the Commissioner's intention to revoke the designation of the school and the ground for the intention; and
  - (b) state that the proprietor may make representations in writing, within 28 days after the service of the notice, why the designation should not be revoked.
- (3) If—
- (a) a notice has been served on the proprietor of a pre-service training school under subsection (1); and
  - (b) either—
    - (i) the proprietor does not make any representations in writing why the designation should not be revoked within the period specified in subsection (2)(b); or
    - (ii) the Commissioner, having considered any representations made by the proprietor, is of the opinion that the proprietor has not shown good cause why the designation should not be revoked,
- the Commissioner may, by notice in writing served on the proprietor, revoke the designation with effect from the date specified in the notice, being a date later than 14 days after the service of the notice.
- (4) The proprietor of a pre-service training school aggrieved by a decision of the Commissioner under subsection (3) may appeal to a Transport Tribunal against the decision within 14 days after the service of the notice of the decision.
- (5) If a decision of the Commissioner is appealed against under subsection (4)—
- (a) a Transport Tribunal may on the appeal affirm, amend or reverse the decision; and
  - (b) the decision does not have effect pending the determination of the appeal.
- (6) If the designation of a pre-service training school is revoked—
- (a) the Commissioner must cause notice of the revocation to be published in the Gazette as soon as practicable after the revocation has come into effect;
  - (b) no compensation is payable to the proprietor of the school in respect of the revocation; and
  - (c) no fee paid under section 102I(2)(b) or (10)(b) is to be refunded.
- (7) Within 28 days after the revocation of the designation of a pre-service training school has come into effect, the last proprietor of the school must refund a person the fee that person has paid for taking a pre-service course at the school for any part of the course which has not been given.
- (8) The revocation of the designation of a pre-service training school does not affect the validity of attendance certificates or course certificates which have been issued lawfully for the school.

(Added 6 of 2012 s. 8)



Section:	102K	<b>Termination of designation</b>	E.R. 2 of 2012	02/08/2012
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- (1) Despite section 102J, if the proprietor of a pre-service training school gives the Commissioner not less than 3 months' notice in writing of termination, the designation of the school is terminated on the expiry of the period of the notice.
- (2) On the termination of a designation, the Commissioner may make a refund in respect of any fee paid under section 102I(2)(b) or (10)(b) of an amount not exceeding the amount obtained by dividing the amount of the fee paid by the number of complete months of the validity period of the designation and multiplying the result by the number of complete months in the unexpired period of the designation.
- (3) Within 28 days after the designation in respect of a pre-service training school is terminated, the last proprietor of the school must refund a person the fee that person has paid for taking a pre-service course at the school for any part of the course which has not been given.
- (4) The termination of the designation of a pre-service training school does not affect the validity of attendance certificates or course certificates which have been issued lawfully for the school.

(Added 6 of 2012 s. 8)

Section:	102L	<b>Ancillary powers of Commissioner</b>	E.R. 2 of 2012	02/08/2012
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For the purposes of this Part, the Commissioner may—

- (a) issue, and from time to time revise, a code of practice setting out—
  - (i) the requirements, procedures and standards in respect of the content and duration of pre-service courses;
  - (ii) the requirements and procedures for providing information by the proprietor of a pre-service training school to the Commissioner in respect of a person's completion of pre-service courses;
  - (iii) the facilities to be provided, the safety measures to be adopted and the equipment to be used in a pre-service training school;
  - (iv) the requirements and procedures for issuing an attendance certificate or a course certificate to a person who has attended and completed a pre-service course; and
  - (v) any other matter the Commissioner considers appropriate;
- (b) specify any form, including the form of any attendance certificate, course certificate or other document;
- (c) authorize in writing persons to sign attendance certificates and course certificates; and
- (d) (if the proprietor of a pre-service training school fails to issue an attendance certificate under section 102I(3)(c)(i) or a course certificate under section 102I(3)(c)(ii)) cause the certificate to be issued for the school, and recover any expenses incurred from—
  - (i) the proprietor of the school; or
  - (ii) (if the designation of the school has been revoked under section 102J(3) or terminated under section 102K(1)) the last proprietor of the school.

(Added 6 of 2012 s. 8)

Section:	102M	<b>Power to enter and inspect</b>	E.R. 2 of 2012	02/08/2012
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- (1) Any public officer authorized in writing by the Commissioner for the purposes of this section may, during the hours when a pre-service training school is open for business, enter the school and, on production of the Commissioner's authorization—
  - (a) observe and monitor the giving of pre-service courses;
  - (b) inspect the school for the purpose of ascertaining whether there has been a contravention of section 102I(3) or (6);
  - (c) inspect or test any motor vehicle or equipment used for the giving of pre-service courses; and
  - (d) inspect and make copies of any record, book or document kept or maintained in respect of the giving of pre-service courses.
- (2) Any person who obstructs a public officer in exercise of the public officer's power under subsection (1) commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

(Added 6 of 2012 s. 8)

Section:	102N	<b>Amendment of Schedule 13</b>	E.R. 2 of 2012	02/08/2012
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The Commissioner may by order published in the Gazette amend Schedule 13.

(Added 6 of 2012 s. 8)

Part:	11	<b>Removal, Detention and Disposal of Vehicles</b>	E.R. 2 of 2012	02/08/2012
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Section:	103	<b>Removal of vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) A police officer in uniform of the rank of sergeant or above may take all reasonable steps to remove or cause to be removed, and where necessary may provide for the safe custody of, any vehicle which-
  - (a) contravenes any of the provisions of this Ordinance or of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap 237); or
  - (b) remains at rest on a road in such conditions or in such circumstances as to be likely to cause danger to other persons using the road or to interfere with the use of the road.
- (2) The power of removal contained in subsection (1) shall be exercised only when-
  - (a) the vehicle is unattended and the driver cannot be located; or
  - (b) the driver is unable to remove the vehicle; or
  - (c) the driver refuses to remove the vehicle.
- (3) Any police officer may remove or cause to be removed and where necessary may provide for the safe custody of any vehicle-
  - (a) which has broken down on a road; or
  - (b) which has been involved in an accident,
 if the driver is unable to move the vehicle to a safe place or fails to do so on being requested to do so by a police officer.

Section:	104	<b>Detention of vehicles</b>	E.R. 2 of 2012	02/08/2012
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Any vehicle removed under section 103 may be detained by the Commissioner of Police until it is-

- (a) returned to the owner under section 105; or
- (b) disposed of under section 106.

Section:	105	<b>Vehicles returned to owner</b>	E.R. 2 of 2012	02/08/2012
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- (1) A vehicle detained under section 104 shall be returned to the owner on payment of the removal and storage charges specified in Schedule 5.
- (2) The Chief Executive in Council may by order published in the Gazette amend Schedule 5. (Amended 3 of 2002 s. 15)

Section:	106	<b>Disposal of unclaimed vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) If a vehicle detained under section 104 is not claimed within 3 days the Commissioner of Police shall serve on the registered owner a notice in writing informing him that unless he-
  - (a) pays to the Commissioner of Police the removal and storage charges specified in Schedule 5; and
  - (b) removes the vehicle from the place of detention within 14 days of the service of the notice on him,
 the vehicle will become the property of the Government.
- (2) If a vehicle is not removed within 14 days of the service of a notice under subsection (1) it shall become the property of the Government and may be sold or otherwise disposed of as the Commissioner of Police thinks fit. (Amended 3 of 2002 s. 15)

Section:	107	<b>Disposal of abandoned vehicles</b>	E.R. 2 of 2012	02/08/2012
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- (1) Where any vehicle has been permitted to remain stationary on any road in such a position or in such condition or

- in such circumstances that there is reasonable cause to believe the vehicle to have been abandoned, any police officer or public officer authorized in writing in that behalf by the Commissioner of Police may cause a notice to be given, requiring the person in whose name the vehicle is registered to remove it or cause it to be removed.
- (2) A notice under subsection (1) shall be addressed to the person in whose name the vehicle is registered and shall be given-
    - (a) by sending it to him by registered post at the address shown on the register; or
    - (b) by affixing it to the vehicle.
  - (3) The notice shall-
    - (a) require the person in whose name the vehicle is registered to move or cause it to be moved to a place which is not on any road-
      - (i) if the notice is sent by registered post, within 7 days of its service on him; or
      - (ii) if the notice is affixed to the vehicle, within 7 days of the date on which it is so affixed; and
    - (b) state that-
      - (i) unless the vehicle is removed within the time so stated, the vehicle will be seized by the Commissioner of Police and removed to a place specified in the notice; and
      - (ii) if the vehicle is not claimed within a period of 14 days from the date of seizure, it will become the property of the Government. (Amended 3 of 2002 s. 15)
  - (4) If the vehicle is not removed as required by a notice given under subsection (1) any police officer of the rank of sergeant or above, or public officer authorized in writing in that behalf by the Commissioner of Police may seize it and may take all reasonable steps to remove it or cause it to be removed to the place specified in the notice.
  - (5) If a vehicle which is seized and removed under subsection (4) is not claimed within 14 days of its seizure, it shall become the property of the Government and may be sold or otherwise disposed of as the Commissioner of Police thinks fit. (Amended 3 of 2002 s. 15)

Section:	108	<b>Application of Part 11</b>	E.R. 2 of 2012	02/08/2012
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This Part applies to the load carried by any vehicle to the like extent as it applies to the vehicle itself.  
(Amended E.R. 2 of 2012)

Part:	12	<b>Miscellaneous</b>	E.R. 2 of 2012	02/08/2012
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Section:	109	<b>Road users' code and codes of practice</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may cause to be prepared a code (in this section referred to as the road users' code) comprising such directions as appear to him to be proper for the guidance of persons using roads and may from time to time revise the code by revoking, varying, amending or adding to the directions therein in such manner as he thinks fit. (Amended 89 of 1994 s. 24; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
- (2) The road users' code and any alterations proposed to be made in the provisions of the code on any revision thereof shall as soon as approved by the Secretary be laid before the Legislative Council. (Amended 89 of 1994 s. 24; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
- (3) The Director of Highways may by notice in the Gazette, prescribe and from time to time revise a code of practice for the lighting, signing and guarding of road works. (Amended 66 of 1984 s. 11; L.N. 127 of 1986)
- (4) The Commissioner may by notice in the Gazette prescribe and from time to time revise a code of practice for the loading of vehicles.
- (4A) The Commissioner may by notice in the Gazette prescribe and from time to time revise a code of practice comprising such directions as appear to him to be proper for the guidance of owners of private roads in relation to any regulations made under-
  - (a) section 11 which relate to traffic signs or road markings; or
  - (b) section 121 which relate to signs or road markings within the meaning of that section. (Added 80 of 1988 s. 10)
- (5) A failure on the part of any person to observe any provisions of the road users' code and any code prescribed under subsection (3) or (4) shall not of itself render that person liable to criminal proceedings of any kind but any such failure may in any proceedings whether civil or criminal and including proceedings for an offence under this Ordinance be relied upon by any party to the proceedings as tending to establish or negative any

liability which is in question in those proceedings.

- (6) For the purpose of section 34 of the Interpretation and General Clauses Ordinance (Cap 1), the road users' code prescribed under subsection (1), a code issued after the commencement of the Road Traffic (Amendment)(No. 2) Ordinance 1994 (89 of 1994), and any alterations of such road users' code shall be deemed to be subsidiary legislation. (Added 89 of 1994 s. 24)

(Amended 20 of 1984 s. 2)

Section:	110	<b>Variation of traffic signs and road markings</b>	E.R. 2 of 2012	02/08/2012
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A traffic sign or road marking which is placed on or in a road and is similar to a prescribed traffic sign or prescribed road marking, as the case may be, shall be deemed to be a prescribed traffic sign or prescribed road marking and to have been lawfully so placed unless the contrary is proved, and the fact that a traffic sign or road marking differs slightly in positioning, size, colour or type from a prescribed traffic sign or prescribed road marking shall not prevent such traffic sign or road marking from being a prescribed traffic sign or prescribed road marking, as the case may be, so long as it is visible and the general appearance and meaning of the sign or marking is not thereby materially impaired.

Section:	111	<b>Forgery of documents</b>	E.R. 2 of 2012	02/08/2012
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- (1) A person commits an offence who, with intent to deceive-
- (a) forges, or alters, or uses, or lends to or allows to be used by any other person, a document or other thing to which this subsection applies; or
  - (b) makes or has in his possession any document or other thing so closely resembling a document or other thing to which this subsection applies as to be calculated to deceive,
- and is liable to a fine of \$10000 and to imprisonment for 3 years. [cf. 1972 c. 20 s. 169 U.K.]
- (2) Subsection (1) applies to the following documents and other things-
- (a) any licence, permit, certificate, notice or other document issued or required to be produced under this Ordinance;
  - (b) any registration mark;
  - (c) any identifying mark applied to a vehicle by a manufacturer;
  - (d) any markings or particulars required to be marked on a vehicle under this Ordinance;
  - (e) any domestic driving licence or permit or international driving permit issued in a country or place outside Hong Kong; (Amended 3 of 2002 s. 15)
  - (f) any document or certificate issued by the manufacturer of a vehicle or any other authority relating to the construction or equipment of the vehicle. (Amended 66 of 1984 s. 12) [cf. 1972 c. 20 s. 169 U.K.]
- (2A) Any person who, with intent to deceive-
- (a) forges a parking card or a display ticket; or
  - (b) makes or has in his possession any document so closely resembling a parking card or a display ticket as to be calculated to deceive,
- commits an offence and is liable to a fine of \$10000 and to imprisonment for 3 years. (Added 61 of 1991 s. 4)
- (3) A person who, for the purpose of-
- (a) obtaining any driving licence, vehicle licence, permit, certificate or other document under this Ordinance;
  - (b) effecting any transfer of ownership of a motor vehicle, to himself or to any other person;
  - (c) obtaining any variation of any such document;
  - (d) preventing the issue or variation of any such document or preventing the imposition of any addition to or limitation in relation to any such document; or (Amended 66 of 1984 s. 12)
  - (e) any other application or notification required to be made or given under this Ordinance, (Added 66 of 1984 s. 12)
- knowingly makes any statement which is false in a material particular commits an offence and is liable to a fine of \$5000 and to imprisonment for 6 months. [cf. 1930 c. 43 s. 112 U.K.]
- (4) If it appears to the Commissioner that any declaration or statement made by the person to whom a licence, permit, certificate, notice or other document was issued under this Ordinance, for the purpose of obtaining the issue or variation of such document was false in a material particular, the Commissioner, after giving to such person not less than 7 days' notice in writing of his intention so to do, may cancel such document, and if such person fails to deliver such document to the Commissioner within 10 days of receiving such notice, he commits

an offence and is liable to a fine of \$2000.

- (5) In any proceedings under this Ordinance, the fact that a driving licence has been granted to a person shall be evidence that that person for the purpose of obtaining that driving licence made a declaration that he was not disqualified for holding or obtaining the driving licence.

Section:	112	<b>Power of Chief Executive to give directions to Commissioner, etc.</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Chief Executive may give to the Commissioner and any other public officer, such directions as he thinks fit with respect to the exercise or performance of their respective powers, functions and duties under this Ordinance, either generally or in any particular case.
- (2) The Commissioner and the other public officer shall, in the exercise or performance of their respective powers, functions and duties under this Ordinance, comply with any directions given by the Chief Executive under subsection (1).

(Amended 3 of 2002 s. 15)

Section:	113	<b>Transitional provisions</b>	E.R. 2 of 2012	02/08/2012
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- (1) Schedule 6 shall have effect for the purposes of transition to the provisions of this Ordinance from the provisions of the repealed Ordinance and shall be in addition to and shall not derogate from section 23 of the Interpretation and General Clauses Ordinance (Cap 1).
- (2) The Chief Executive may by order amend Schedule 6. (Amended 3 of 2002 s. 15)

Section:	113A	<b>Transitional provision regarding public and private buses</b>	E.R. 2 of 2012	02/08/2012
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Notwithstanding anything contained in this Ordinance apart from this section, a motor vehicle constructed or adapted for the carriage of 15 or 16 passengers and registered as a private bus or public bus before the commencement of the Road Traffic (Amendment)(No. 3) Ordinance 1988 (89 of 1988) shall be deemed to be a private bus or public bus, as may be appropriate.

(Added 89 of 1988 s. 3)

Section:	113B	<b>Transitional provisions regarding reckless driving causing death and reckless driving</b>	E.R. 2 of 2012	02/08/2012
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- (1) The repeal of sections 36 and 37 by section 2 of the Road Traffic (Amendment) Ordinance 2000 (33 of 2000) (*the amending Ordinance*) does not-
- (a) affect any liability incurred under the repealed section 36 or 37; or
- (b) affect-
- (i) any penalty or disqualification imposed; or
- (ii) any investigation or criminal proceedings instituted, in respect of any offence committed before the commencement of the amending Ordinance against the repealed section 36 or 37; and any such penalty or disqualification may be imposed, and any investigation or criminal proceedings may be instituted or carried on in respect of such offence, as if the amending Ordinance had not been passed.
- (2) A person may be convicted of an offence under the repealed section 36 notwithstanding that the death of another person as referred to in the repealed section 36(1) occurs on or after the commencement of the amending Ordinance.
- (3) Subsections (1) and (2) shall be in addition to and shall not derogate from section 23 of the Interpretation and General Clauses Ordinance (Cap 1).

(Added 33 of 2000 s. 4)

Section:	114	<b>Minor and consequential amendments</b>	E.R. 2 of 2012	02/08/2012
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- (1) The enactments listed in the first column of Schedule 7 are amended in the manner set out in the second column

of Schedule 7.

- (2) In any law, for any reference to the Public Omnibus Services Ordinance (Cap 230), there shall be substituted a reference to the Public Bus Services Ordinance (Cap 230).
- (3) The Chief Executive may by order amend Schedule 7 so as to amend references in any enactment to subsidiary legislation made under the repealed Ordinance. (Amended 3 of 2002 s. 15)

Section:	114A	<b>Advertising on parking meter</b>	E.R. 2 of 2012	02/08/2012
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- (1) Part IX of the Public Health and Municipal Services Ordinance (Cap 132) and the Advertisements Regulation (Cap 132 sub. leg. B) shall not apply to the use of any part of a parking meter for advertising purposes. (Amended 78 of 1999 s. 7)
- (2) The Commissioner may use or permit the use of any part of a parking meter for advertising purposes on such terms and conditions and for such period as he thinks fit.

(Added 91 of 1993 s. 4. Amended E.R. 2 of 2012)

Section:	115	<b>(Has had its effect)</b>		30/06/1997
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Section:	115A	<b>Remuneration, etc. under management agreements</b>	E.R. 2 of 2012	02/08/2012
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- (1) Where there is a parking meter management agreement or vehicle examination centre management agreement between the Government and any person, and the terms of the agreement have been approved by the Financial Secretary for the purposes of this section, those parts or percentages of any moneys raised or received for the purposes of the Government under the agreement which that person is entitled under the agreement to retain by way of remuneration or reimbursement shall not form part of the general revenue for the purposes of section 3(1) of the Public Finance Ordinance (Cap 2).
- (2) Subsection (1) applies in relation to a parking meter management agreement or vehicle examination centre management agreement entered into before the commencement of Part IV of the Road Traffic (Amendment) Ordinance 1999 (50 of 1999) as it applies in relation to such an agreement entered into on or after that commencement, but nothing in this section shall be construed as applying to any moneys raised or received for the purposes of the Government before the date of the approval of the Financial Secretary under subsection (1).
- (3) In this section-

**parking meter management agreement** (停車收費錶管理協議) means an agreement entered into by any person with the Government authorizing that person to undertake such functions relating to parking meters as are specified by the Commissioner and on such terms and conditions as are imposed by the Commissioner;

**vehicle examination centre management agreement** (驗車中心管理協議) means an agreement under section 88(3) authorizing a person to operate a place as a vehicle examination centre.

(Added 50 of 1999 s. 15)

Part:	13	<b>Private Roads</b>	E.R. 2 of 2012	02/08/2012
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(Part 13 added 80 of 1988 s. 11)

Section:	116	<b>This Part not to apply to certain private roads</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may, by notice in the Gazette, specify private roads to which this Part shall not apply subject to such conditions, if any, as are specified in the notice. (Amended L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
- (2) A notice under subsection (1) may specify the private roads to which it relates by-
  - (a) naming such roads;
  - (b) describing the area within which such roads are situated; or
  - (c) reference to a plan,or any combination thereof.

Section:	117	<b>Application of Ordinance to private roads</b>	E.R. 2 of 2012	02/08/2012
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Sections 36, 36A, 37, 38, 39, 39A, 39B, 39C, 39D, 39E, 39J, 39K, 39L, 39M, 39N, 39O, 39P, 39Q, 39R, 39S, 39U, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52(1) and (10)(a), 55, 56, 57, 60, 61, 63, 80, 84(1)(c), 103(1)(b) and (3)(a), 107, 109 and 110 shall apply to private roads as they apply to roads and, for that purpose- (Amended 19 of 2010 s. 20; 24 of 2011 s. 18)

- (a) the other provisions of this Ordinance which relate, in any way, to those sections; and
  - (b) the provisions of any other Ordinance which relate, in any way, to those sections or to the provisions referred to in paragraph (a),
- shall apply accordingly.

(Amended 39 of 1995 s. 12)

Section:	118	<b>Application of regulations to private roads</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to any regulations made in pursuance of subsection (2), all regulations made under this Ordinance (except section 12) shall apply to private roads as they apply to roads and, for that purpose-
  - (a) the other provisions of this Ordinance which relate, in any way, to such regulations which apply to private roads; and
  - (b) the provisions of any other Ordinance which relate, in any way, to such regulations which apply to private roads or to the provisions referred to in paragraph (a),
 shall apply accordingly.
- (2) Where any power is conferred by this Ordinance (except section 12) to make regulations, such power shall include the power to-
  - (a) specify that all or any regulations made in pursuance of that power shall not apply to private roads; and
  - (b) modify or qualify the application to private roads of all or any regulations made in pursuance of that power.

Section:	119	<b>Proof of certain offences which apply to private roads as they apply to roads</b>	E.R. 2 of 2012	02/08/2012
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Where any provision of this or any other Ordinance creates an offence an element of which is that the offence occurs on or in relation to a place which is a road or private road, then, without prejudice to the proof of any other elements of that offence, it shall be sufficient in any proceedings alleging the commission of that offence for the prosecution to show that the place where that offence was committed was either a road or private road, without showing that the place was one or the other, and a charge alleging the commission of that offence may be framed accordingly.

Section:	120	<b>Defence</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to subsection (2), where any provision of this Ordinance (except section 36, 36A, 37, 38, 39, 39A, 39B, 39C, 39J, 39K, 39L, 39O, 39S, 56, 57, 61, 63 or 80), or any other Ordinance, creates an offence an element of which is that the offence occurs on or in relation to a place which is a private road, and irrespective of whether that offence may also occur on or in relation to a place which is a road, then, without- (Amended 39 of 1995 s. 13; 19 of 2010 s. 21; 24 of 2011 s. 19)
  - (a) prejudice to the proof of any other elements of that offence; or
  - (b) limiting the generality of any other defence, or affecting any other charge which may be laid, under any provision of this Ordinance or any other Ordinance,
 it shall be a defence in any proceedings alleging the commission of that offence for the defendant to show that the private road where that offence was committed was within-
  - (i) an area wholly or mainly used for the carrying on of construction work; or
  - (ii) an area wholly or mainly used for the carrying on of industry.
- (2) Where in any proceedings alleging the commission of an offence referred to in section 119 the prosecution shows that the place where that offence was committed was either a road or private road, without showing that the place was one or the other, subsection (1) shall not apply in relation to those proceedings unless the defendant first shows that the place was a private road.
- (3) For the purposes of this section-

**construction work** (建造工程) means any one or more of the following activities-

- (a) building works;
- (b) works associated with the provision of utilities;
- (c) road works;
- (d) reclamation;
- (e) dumping;
- (f) quarrying; and
- (g) an activity declared under subsection (4) to be construction work;

**industry** (工業) means any one or more of the following activities-

- (a) the manufacture of articles;
- (b) any process by which articles are altered, repaired or broken up;
- (c) the generation of power;
- (d) the loading, unloading or handling of articles or cargo at any dock, quay or wharf or in any warehouse;
- (e) the storage of goods or cargo;
- (f) shipbuilding; and
- (g) an activity declared under subsection (4) to be industry.

(4) For the purposes of this section, the Chief Executive may, by notice in the Gazette, declare an activity to be- (Amended 3 of 2002 s. 15)

- (a) construction work; or
- (b) industry.

Section:	121	<b>Regulation of parking on private roads</b>	E.R. 2 of 2012	02/08/2012
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(1) In this section-

**immobilisation device** (鎖車設備) means any device or appliance designed or adapted to be fitted to a vehicle for the purpose of preventing it from being driven or otherwise put in motion;

**road marking** (道路標記) means a line, word, mark or device placed on, or set into, the surface of a private road for conveying to persons using that road any warning, information, requirement, restriction, prohibition or direction;

**sign** (標誌) means a sign, object or device for conveying to persons using a private road any warning, information, direction, requirement, restriction or prohibition.

(2) The Secretary may make regulations to enable owners of private roads to- (Amended 89 of 1994 s. 25; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)

- (a) prohibit and restrict parking of vehicles on such roads by the erection or placement of signs, or the placing of road markings, specified in the regulations;
- (b) impound or remove vehicles parked in contravention of the regulations, and to store such vehicles until payment of such impounding or removal charges and storage charges as are specified in the regulations;
- (c) use immobilisation devices, approved by the Commissioner, for the purposes of paragraph (b);
- (d) deliver into the custody of the Commissioner of Police, in such circumstances as are specified in the regulations, vehicles detained under the regulations where any charge referred to in paragraph (b) incurred in respect of any such vehicle is not paid within such period as is specified in the regulations;
- (e) require a person who has erected or placed on the road a sign or road marking in contravention of the regulations to remove it;
- (f) recover as a civil debt from a person referred to in paragraph (e) the cost of removing a sign or road marking referred to in that paragraph;
- (g) delegate to any person any powers conferred on them under the regulations; and
- (h) appoint persons to be authorized officers for the purposes of the regulations and to issue identity cards to such officers,

and may make any other regulations necessary or convenient to be made for the purposes of any of the matters referred to in paragraphs (a) to (h) inclusive, including regulations-

- (i) providing for vehicles referred to in paragraph (d) delivered into the custody of the Commissioner of Police to become the property of the Government free from the rights of any person and for empowering the Commissioner of Police to dispose of such vehicles by sale or otherwise as he thinks fit; (Amended 3 of 2002 s. 15)
- (ii) for the forfeiture of a sign referred to in paragraph (e);



- (iii) to make it an offence to obstruct the owner of a private road, or an authorized officer referred to in paragraph (h), in the exercise of any powers, or the discharge of any duties, under the regulations;
- (iv) providing for the Commissioner to specify particulars to be contained in identity cards referred to in paragraph (h); and
- (v) specifying private roads to which the regulations shall not apply.

(Added 80 of 1988 s. 11)

Part:	14	<b>Expressways</b>	E.R. 2 of 2012	02/08/2012
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(Part 14 added 71 of 1991 s. 6)

Section:	122	<b>Interpretation</b>	E.R. 2 of 2012	02/08/2012
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In this Part, unless the context otherwise requires-

**deposited plan** (已存放圖則) means a plan prepared and deposited under section 123 and includes any new plan so prepared and deposited under that section by way of variation of an existing plan;

**Director** means the Director of Highways;

**expressway** (快速公路) means any expressway designated as such by the Commissioner as an expressway under section 123(1) and delineated as such on a deposited plan, and includes any part of an expressway;

**expressway access** (快速公路入口) means that part of an expressway (delineated as such on a deposited plan and indicated as such by road markings or traffic signs) where a vehicle is permitted to enter the expressway;

**expressway exit** (快速公路出口) means that part of an expressway (delineated as such on a deposited plan and indicated as such by road markings or traffic signs) where a vehicle is permitted to leave the expressway;

**expressway plant and equipment** (快速公路裝置及裝備) means any apparatus, cable, casing, conduit, duct, machinery, pipe, post, structure, traffic sign, tube, utility or other thing comprising or forming part of, or used in connection with, any expressway works, but does not include a vehicle;

**expressway works** (快速公路工程), in relation to an expressway, means-

- (a) any works of alteration, closure, construction, diversion, demolition, excavation, inspection, installation, investigation, maintenance, reinstatement, renovation, repair or survey in, on, over or under that expressway or beneath the physical structure of that expressway;
- (b) any other works designated as expressway works by the Secretary for the purposes of this definition by notice in the Gazette; and (Amended L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
- (c) any operations ancillary or incidental thereto;

**person responsible** (負責人), in relation to the carrying out of expressway works, means the person under whose supervision or direction the expressway works are carried out or are intended to be so carried out;

**unleased Government land** (未批租政府土地) has the meaning assigned to it by regulation 29 of the Road Traffic (Traffic Control) Regulations (Cap 374 sub. leg. G); (Amended 29 of 1998 s. 105)

**utility** (公用設施) means any electric power cable, telephone cable or other cable used in communication, any telecommunications apparatus, and any pipe used in the supply of water, gas or oil, or for drainage or sewerage, together with any cable, duct or pipe and any ancillary apparatus in respect thereof.

(Added 71 of 1991 s. 6)

Section:	123	<b>Designation of expressways and determination of boundaries</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Commissioner may, by notice published in the Gazette, designate any road and any unleased Government land which is not a road immediately adjacent thereto (including any access thereto or exit therefrom) as an expressway and may, by notice in the Gazette, amend or revoke any such designation. (Amended 29 of 1998 s. 105)
- (2) The Commissioner shall determine the boundaries of any expressway designated under subsection (1) and may vary in whole or in part any such determination.
- (3) Where a determination of boundaries is made under subsection (2), or any such determination is varied under

that subsection, the Director of Lands shall prepare a plan or plans delineating the boundaries, as so determined or varied, of that expressway. (Amended L.N. 291 of 1993)

- (4) Every plan prepared under this section shall be numbered, dated, signed by the Director of Lands and deposited in the Land Registry, Victoria. (Amended 8 of 1993 s. 2; L.N. 291 of 1993)
- (5) In this section **road** (道路) does not include any road or portion of a road which comprises a footway within the meaning of regulation 2 of the Road Traffic (Traffic Control) Regulations (Cap 374 sub. leg. G), any pedestrian road within the meaning of regulation 29 of those regulations, or any road or portion of a road set aside for bicycles or tricycles.

(Amended E.R. 2 of 2012)

Section:	124	<b>Proof of deposited plan</b>	E.R. 2 of 2012	02/08/2012
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- (1) In any proceedings before a court a copy of a deposited plan, certified by the Director of Lands to be a copy of that plan, shall be proof that the road (within the meaning of section 123(5)) and any unleased Government land which is not a road immediately adjacent thereto and comprised within the boundaries of an expressway delineated as such on that copy is an expressway. (Amended 29 of 1998 s. 105)
- (2) A copy of a deposited plan purporting to be certified by the Director of Lands under subsection (1) shall, on its production to the court by any public officer, be admitted in evidence without further proof and shall be presumed to have been so certified.

(Added 71 of 1991 s. 6. Amended L.N. 291 of 1993)

Section:	125	<b>No expressway works to be carried out without consent</b>	E.R. 2 of 2012	02/08/2012
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- (1) Notwithstanding the provisions of any other Ordinance and subject to subsection (2), no person shall carry out, or cause to be carried out, any expressway works unless he first obtains the written authorization (whether by permit or otherwise) of the Director issued in accordance with regulations made under section 131 and containing such conditions as the Director sees fit to impose in respect of those works or in respect of any vehicle used, or to be used, in connection with those works.
- (2) Subsection (1) shall not apply-
  - (a) to any person carrying out, or causing to carry out, any expressway works which may be necessary in the event of an accident or emergency, but the person responsible for those expressway works shall-
    - (i) give immediate notice to the Director and the Commissioner of Police, either orally or in writing, of his intention to carry out, or cause to be carried out, those works;
    - (ii) obtain the consent or permission of the Director and the Commissioner of Police before carrying out, or causing to be carried out, those works;
    - (iii) carry out, or cause to be carried out, those works in accordance with that consent or permission; and
    - (iv) within one working day of the accident or emergency, apply to the Director for the issue of a written authorization (whether by permit or otherwise) in accordance with regulations made under section 131 and containing such conditions as the Director sees fit to impose in respect of those works or in respect of any vehicle used, or to be used, in connection with those works;
  - (b) to any relevant person carrying out, or causing to carry out, any expressway works which comprise only inspections, investigations or surveys in respect of an expressway, or to any vehicle used, or to be used, by that person in connection with those works.
- (3) Without prejudice to the generality of subsections (1) and (2), the conditions that the Director may impose under subsection (1) or (2)(a)(iv) may include conditions which seek to ensure-
  - (a) the safety of persons using the expressway or carrying out expressway works;
  - (b) the quality and satisfactory condition of those expressway works; and
  - (c) the minimum disruption to vehicular traffic using the expressway.
- (4) Any person who-
  - (a) fails to obtain a written authorization of the Director under subsection (1) or (2)(a)(iv);
  - (b) fails to comply with that written authorization, or any condition imposed by the Director under those subsections; or
  - (c) fails to comply with any of the requirements of subsection (2)(a)(i), (ii), (iii) or (iv), commits an offence and is liable in the case of a first conviction to a fine of \$5000 and to imprisonment for 6

months, and in the case of a second or subsequent conviction to a fine of \$10000 and to imprisonment for 12 months.

- (5) In the case of a failure-
  - (a) to obtain a written authorization of the Director under subsection (1) or (2)(a)(iv); or
  - (b) to comply with that written authorization, or any condition imposed by the Director under those subsections,
 the Director may, if the person responsible for the expressway works defaults, complete those works or rectify any deficiency in respect of those works and the person responsible for those works shall pay to the Director the costs incurred for such completion or rectification.
- (6) Any costs incurred by the Director under subsection (5) shall be recoverable as a civil debt.
- (7) In this section, **relevant person** (有關人士) means-
  - (a) the Commissioner, any public officer authorized (by name or office) by the Commissioner or any other person authorized by the Commissioner;
  - (b) the Director, any public officer authorized (by name or office) by the Director or any other person authorized by the Director; or
  - (c) the Commissioner of Police, any police officer in uniform or any other person authorized by the Commissioner of Police.

(Added 71 of 1991 s. 6)

Section:	126	<b>Removal of expressway plant and equipment causing a danger or an obstruction</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Director, any public officer authorized (by name or office) by the Director or any police officer in uniform (**the relevant officer**) may take all reasonable steps to remove, or cause to be removed, and where necessary may provide for the safe custody of, any expressway plant and equipment which is in, on, over or under an expressway or beneath the physical structure of an expressway and in such a condition or in such circumstances as to be likely to cause danger to persons using the expressway or to interfere with the use of the expressway.
- (2) The power of removal contained in subsection (1) shall be exercised only when-
  - (a) the expressway plant and equipment is unattended and the owner or other person in charge or possession of that plant or equipment cannot be located; or
  - (b) the owner or other person in charge or possession of the expressway plant and equipment is unable to remove it; or
  - (c) the owner or other person in charge or possession of the expressway plant and equipment refuses to remove it on being requested to do so by the relevant officer.
- (3) The relevant officer may remove, or cause to be removed, and where necessary may provide for the safe custody of any expressway plant and equipment which has been involved in an accident if the owner or other person in charge or possession of that plant and equipment is unable to move it to a safe place or fails to do so on being requested to do so by the relevant officer.

(Added 71 of 1991 s. 6)

Section:	127	<b>Detention of expressway plant and equipment</b>	E.R. 2 of 2012	02/08/2012
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Any expressway plant and equipment removed under section 126 may be detained by the Director or the Commissioner of Police, as the case may be, until it is-

- (a) returned under section 128 to the owner or to such other person as the owner may authorize in writing; or
- (b) disposed of under section 129.

(Added 71 of 1991 s. 6)

Section:	128	<b>Expressway plant and equipment returned to owner</b>	E.R. 2 of 2012	02/08/2012
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- (1) Any expressway plant and equipment detained under section 127 shall be returned to the owner or to such other person as the owner may authorize in writing on payment to the Director or the Commissioner of Police, as the case may be, of any removal and storage costs incurred in such removal and storage.
- (2) Any costs incurred by the Director or the Commissioner of Police, as the case may be, under subsection (1) shall

be recoverable from the owner as a civil debt.

(Added 71 of 1991 s. 6)

Section:	129	<b>Disposal of unclaimed expressway plant and equipment</b>	E.R. 2 of 2012	02/08/2012
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- (1) If any expressway plant and equipment detained under section 127 is not claimed within 3 days the Director or the Commissioner of Police, as the case may be, shall serve on the owner of such plant and equipment, or on such other person in charge or possession of it at the time of its removal under section 126, a notice informing him that unless he-
  - (a) pays to the Director or the Commissioner of Police, as the case may be, any removal and storage costs incurred in such removal and storage; and
  - (b) after such payment, removes the expressway plant and equipment from the place of detention within 14 days of the service of the notice on him,the expressway plant and equipment shall become the property of the Government.
- (2) If any expressway plant and equipment is not removed within 14 days of the service of a notice under subsection (1) it shall become the property of the Government and may be sold or otherwise disposed of as the Director or the Commissioner of Police, as the case may be, thinks fit.
- (3) Any costs incurred by the Director, or the Commissioner of Police, as the case may be, under this section or section 128(2), and not recovered under this section by the sale or disposal of the plant and equipment under this section, shall be recoverable from the owner or former owner, as the case may be, as a civil debt.

(Added 71 of 1991 s. 6. Amended 3 of 2002 s. 15)

Section:	130	<b>Access to and exit from an expressway</b>	E.R. 2 of 2012	02/08/2012
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- (1) Subject to subsection (2), any person who drives a vehicle-
  - (a) on to an expressway other than by way of an expressway access; or
  - (b) off an expressway other than by way of an expressway exit,commits an offence and is liable to a fine of \$5000 and imprisonment for 6 months.
- (2) Subsection (1) shall not apply to any person lawfully driving a vehicle on an occasion when it is being used for fire services, ambulance or police purposes or is being used in connection with the carrying out of any expressway works authorized under section 125, if compliance with subsection (1) would be likely to hinder the use of the vehicle on that occasion for any of those purposes.

(Added 71 of 1991 s. 6)

Section:	131	<b>Regulations</b>	E.R. 2 of 2012	02/08/2012
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- (1) The Secretary may make regulations to provide for- (Amended 89 of 1994 s. 26; L.N. 106 of 2002; L.N. 130 of 2007; 6 of 2012 s. 2)
  - (a) the classification, design, colour, erection, lighting, placing, operation, maintenance, alteration and removal of permanent, temporary and variable traffic signs and road markings erected or placed on or near an expressway;
  - (b) (Repealed 89 of 1994 s. 26)
  - (c) controlling, regulating and restricting pedestrian movements on an expressway;
  - (d) prohibiting, controlling and regulating the use of an expressway by all or any specified type or class or description of vehicle;
  - (e) controlling and regulating the manner in which any expressway works are carried out and completed including the lighting, signing and guarding of those works and any vehicles used, or to be used, in connection therewith;
  - (f) the issue, display, surrender and cancellation of any written authorization, consent or permission (whether described as a permit or otherwise) of the Director in respect of any expressway works and the imposition at the discretion of the Director of any conditions in respect thereof or in respect of any vehicle used, or to be used, in connection therewith;
  - (g) (Repealed 89 of 1994 s. 26)
  - (h) controlling and regulating any persons carrying out expressway works and any vehicles used, or to be used, in connection therewith;

- (i) controlling and regulating the use or operation of recovery vehicles on an expressway;
  - (j) prohibiting, controlling and restricting animals on an expressway;
  - (k) the total or partial closure of an expressway including any expressway access or expressway exit;
  - (l) prohibiting, controlling and restricting the painting or affixing of any poster, placard, bill, advertisement or other matter on, over or under an expressway or beneath the physical structure of an expressway;
  - (m) exempting persons or vehicles, or any type or class or description of vehicle from the operation of any regulation (including any condition imposed by such regulation) whether by permit or otherwise and, in the case of the issue of a permit, the fees if any) payable for such issue; and (Amended 89 of 1994 s. 26)
  - (n)-(o) (Repealed 89 of 1994 s. 26)
  - (p) generally carrying into effect the provisions of this Part relating to the regulation of traffic on an expressway.
- (2) The Chief Executive in Council may make regulations to provide for- (Amended 3 of 2002 s. 15)
- (a) the fees to be charged for the issue by the Director of any written authorization, consent or permission (whether described as a permit or otherwise) in respect of any expressway works or in respect of any vehicle used, or to be used, in connection with those works, the provision by the Director of lanterns, road markings and traffic signs for the purpose of lighting, signing and guarding those works or vehicles and the fees for any other matter under the regulations; and
  - (b) the waiving, exemption, reduction or refund of fees. (Added 89 of 1994 s. 26)

(Added 71 of 1991 s. 6)

Schedule:	1	<b>Classes of Vehicle</b>	E.R. 2 of 2012	02/08/2012
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[sections 6, 21, 22 & 52]

- Private car
- Taxi
- Public light bus
- Private light bus
- Light goods vehicle
- Medium goods vehicle
- Public bus
- Private bus
- Heavy goods vehicle
- Special purpose vehicle
- Motor cycle
- Motor tricycle
- Invalid carriage
- Trailer
- Rickshaw

Schedule:	1A	<b>Specified Illicit Drugs</b>	E.R. 2 of 2012	02/08/2012
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[sections 2 & 39I]

1. Heroin or any metabolite derived from heroin
2. Ketamine
3. Methamphetamine (methylamphetamine)
4. Cannabis or any active ingredient of cannabis
5. Cocaine or any metabolite derived from cocaine
6. 3, 4-methylenedioxymethamphetamine (MDMA)

Schedule:	2		E.R. 2 of 2012	02/08/2012
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[section 73]

Form 1

Form of Certificate by Police Officer as to Drawing or Plan

I, A.B., of ..... hereby certify that this plan or drawing was made by me and is correctly drawn to a scale of ..... to .....

Dated this ..... day of ....., 19 .....

A.B.

Rank .....

Form 2

Form of Certificate by Police Officer of Statement as to Motor Vehicle

I, A.B., of ..... hereby certify that on the ..... day of ....., 19....., at ....., C.D. of ..... stated to me that on the ..... day of ....., 19 ....., at..... a.m./p.m. a\* ..... registered number.....

+(i) was being driven [or used] by him/her, and

(ii) +(a) belonged to him/her, or

+(b) {[as being used by]{[and]{}[or belonged to] the firm of..... of ....., and that he/she was at the time of the statement a partner in that firm; or

+(c) {[as being used by]{[and]{}[or belonged to] the corporation of.....,of ....., and that at the time of the statement he/she was a ..... of [employed as ..... by] the said .....

Dated this ..... day of ....., 19 .....

A.B.

Rank .....

\* State description of motor vehicle e.g., goods vehicle.

+ Delete if not applicable.

State principal office or place where the firm conducts its business.

State registered office or, if no registered office, principal office or place where the corporation conducts its business.

State nature of office or employment.

Form 3

Form of Notice by Defendant Requiring Attendance of Witness

To A.B., of .....

Whereas I, C.D., of....., have been served under section 73(4)(a) of the Road Traffic Ordinance (Cap 374) with a copy of a plan or drawing authenticated by a certificate [or a certificate relating to a statement made by.....]:

I hereby give notice under section 73(4)(b) of the Road Traffic Ordinance (Cap 374) that I require the attendance at the hearing or trial of the charge against me of the person who signed the said certificate.

Dated this ..... day of ....., 19.....

C.D.

(Amended L.N. 491 of 1995)

Schedule:	3	<b>Fees for Vehicle Examinations</b>	L.N. 195 of 2015	07/12/2015
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[section 86]

**Part 1**

**Application**

**1. Application**

- (1) Part 2 of this Schedule applies to a vehicle examination, other than an examination to which Part 3 of this Schedule applies.
- (2) Part 3 of this Schedule applies to a qualified examination of a specified vehicle.
- (3) In this section—

**qualified examination** (合資格檢驗) has the meaning given by section 3 of Part 3 of this Schedule;

**specified vehicle** (指明車輛) has the meaning given by section 2 of Part 3 of this Schedule.

(Part 1 added L.N. 89 of 2015)

**Part 2**

**Vehicle Examinations (other than those to which Part 3 of this Schedule Applies)**

(Added L.N. 89 of 2015)

1.	Motor cycle or motor tricycle	\$ 350
2.	Private car	585
3.	Taxi	585
4.	Goods vehicle or special purpose vehicle not exceeding 5.5 tonnes permitted	

	gross vehicle weight	695
5.	Goods vehicle or special purpose vehicle exceeding 5.5 tonnes permitted gross vehicle weight	935
6.	Light bus	695
7.	Single-decked bus	935
8.	Double-decked bus	1050
9.	Trailer (other than a trailer towed by a private car)	585

### **Part 3**

#### **Qualified Examinations of Specified Vehicles**

##### **1. Fee**

The fee for a qualified examination of a specified vehicle is \$0.

##### **2. What is specified vehicle**

A vehicle is a specified vehicle if it falls within any of the following classes—

- (a) taxi;
- (b) goods vehicle;
- (c) special purpose vehicle;
- (d) light bus;
- (e) single-decked bus;
- (f) double-decked bus;
- (g) trailer (other than a trailer towed by a private car).

##### **3. What is qualified examination**

- (1) An examination of a vehicle is a qualified examination if the conditions set out in subsection (2) are satisfied.
- (2) The conditions are—
  - (a) the examination of the vehicle is a specified examination; and
  - (b) the examination—
    - (i) takes place on a date that falls within the period beginning on 13 July 2015 and ending at midnight on 11 November 2016; and
    - (ii) is the first specified examination of the vehicle within that period.

##### **4. What is specified examination**

For the purposes of section 3(2) of this Part, an examination of a vehicle is a specified examination if—

- (a) the examination is an examination required under section 78(1)(d) by notice given under section 78(1A)(b); and
- (b) the date for the examination is specified, under section 78(1A)(d), on a date that falls within the period beginning on 13 July 2015 and ending at midnight on 12 July 2016.

(Part 3 added L.N. 89 of 2015)

(Schedule 3 replaced L.N. 210 of 1995. Amended L.N. 33 of 1998; L.N. 145 of 1998; L.N. 195 of 2015)



Schedule:	4	<b>Offences and Periods for Which the Licence of a Motor Vehicle may be Suspended</b>	E.R. 2 of 2012	02/08/2012
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[sections 89, 90, 93,  
97, 98, 99, 100 &  
102]

ITEM	OFFENCE	PERIOD OF SUSPENSION	
		First offence	Subsequent offence in respect of the same motor vehicle
1.	Contravention of section 52(3), (4), (5), (6) and (7)	3 months	6 months

(Amended L.N. 21 of 1985)

Schedule:	5	<b>Removal and Storage Charges</b>	L.N. 49 of 2014	09/06/2014
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[sections 96, 105 & 106]

		\$
1.	Removal charge	
	(a) for a vehicle having a permitted gross vehicle weight not exceeding 5.5 tonnes	560
	(b) for a vehicle having a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes	1280
	(c) for a vehicle having a permitted gross vehicle weight exceeding 24 tonnes	3210
2.	Storage charge	172 per day after the second day during which the vehicle is detained

(Schedule 5 replaced L.N. 648 of 1994. Amended L.N. 34 of 1998; L.N. 173 of 2005; L.N. 49 of 2014)

Schedule:	6	<b>Transitional Provisions</b>	E.R. 2 of 2012	02/08/2012
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[section 113]

- In so far as any order, application, appointment, determination or decision made or having effect as if made, certificate, designation, direction or notice issued, given, or delivered or having effect as if issued, given or delivered, condition imposed or having effect as imposed, or other thing done or having effect as if done under the repealed Ordinance could have been made, issued, given, delivered, imposed or done under a corresponding provision of this Ordinance it shall not be invalidated by the repeal effected by section 115 of this Ordinance, but shall have effect as if made, issued, given, delivered, imposed or done under that corresponding provision.
- Where any enactment or document refers, whether specifically or by means of a general description to the repealed Ordinance or is to be construed as so referring, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Ordinance.
- Any record kept under the repealed Ordinance shall be deemed to have been kept under the corresponding provisions of this Ordinance.
- (Omitted as spent—E.R. 2 of 2012)

Schedule:	7	<b>Minor and Consequential Amendments</b>	E.R. 2 of 2012	02/08/2012
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[section 114]

Enactment  
Amendment  
(All amendments incorporated)

Schedule:	8	<b>Requirements Applicable to Car Testing Centres</b>	L.N. 196 of 2015	07/12/2015
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[sections 88C, 88D, 88F & 88H]

1. A car testing centre shall be equipped, staffed, operated and maintained, and examinations of private cars and light goods vehicles shall be conducted, in accordance with the code of practice issued and from time to time revised by the Commissioner under section 88F(1)(a). (Amended L.N. 207 of 1990)
2. Examinations of private cars and light goods vehicles at the car testing centre shall be carried out only by an approved car tester, and under the general supervision of a responsible person. (Amended L.N. 207 of 1990)
3. Notice shall be given by the proprietor to the Commissioner forthwith of any change-
  - (a) of an approved car tester employed at the car testing centre;
  - (b) of a responsible person employed at the car testing centre; and
  - (c) in the ownership of the car testing centre, or the financial status of the proprietor, or any other matter specified by the Commissioner.
4. Subject to any practice laid down in the code of practice, the car testing centre shall examine any private car or light goods vehicle produced to it for examination for the purposes of Part 14A of the Ordinance. (Amended L.N. 207 of 1990)
5. Notices in a form approved by the Commissioner shall be prominently displayed at the car testing centre indicating and stating-
  - (a) that the place is a car testing centre;
  - (b) the hours that the car testing centre is open for business;
  - (c) the names of the approved car testers, and of the responsible person at the car testing centre;
  - (d) the fees that are charged at the car testing centre;
  - (e) the addresses of other car testing centres within Hong Kong;
  - (f) the circumstances under which the issue of a certificate of roadworthiness may be refused;
  - (g) the procedure that may be followed upon a refusal to issue a certificate of road worthiness; and
  - (h) a warning against the commission of offences under the Prevention of Bribery Ordinance (Cap 201) and the Independent Commission Against Corruption Ordinance (Cap 204). (Amended 71 of 1991 s. 7)
6. Fees
 

(a)	Fee payable for designation or renewal of designation of a place as a car testing centre. (Amended L.N. 529 of 1996; L.N. 35 of 1998; L.N. 146 of 1998)	\$12100
(b)	Fees to be charged in respect of an examination-	
	(i) Initial examination-	
	(A) Private car	\$585
	(B) Light goods vehicle	\$695
	(ii) Re-examination where made within 14 days of initial examination-	
	(A) Private car	
	(B) Light goods vehicle	\$180
		\$230
	(iii) Issue of a duplicate copy of a certificate of roadworthiness-	
	(A) Private car	
	(B) Light goods vehicle (Replaced L.N. 453 of 1995. Amended	\$180

L.N. 513 of 1995)

\$230

- \*(c) Fee payable for supply of each form of a certificate of road worthiness-
  - (i) Private car
  - (ii) Light goods vehicle (Added L.N. 50 of 1998)

\$16

\$16

(Schedule 8 added 65 of 1985 s. 4. Amended E.R. 2 of 2012; L.N. 196 of 2015)

**Note:**

\* **Please see Cap 543 in relation to the fees paid by any proprietor of a car testing centre for the supply of a form of a certificate of roadworthiness in respect of a private car or light goods vehicle during the period from 9.11.1995 to 22.1.1998 (the date immediately before the commencement of L.N. 50 of 1998).**

Schedule:	9	<b>Requirements Applicable to Designated Driving Schools</b>	L.N. 50 of 2014	09/06/2014
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[sections 88K, 88L, 88O & 88P]

1. Driving instructors giving driving instruction courses shall be holders of valid driving instructors' licences issued under regulation 22 of the Road Traffic (Driving Licences) Regulations (Cap 374 sub. leg. B) and a person who is not the holder of such a licence shall not give such a course.
2. Notice shall be given by the proprietor of the driving school to the Commissioner forthwith-
  - (a) of any change of persons employed at the driving school who are authorized to sign course certificates under section 88N(b);
  - (b) of any change in the proprietorship of the driving school, or any other matter specified by the Commissioner; and
  - (c) if grounds exist for a creditor to present a bankruptcy petition against the proprietor or he has entered into liquidation or has entered into any voluntary arrangement with his creditors or has suffered any distress or execution to be levied upon his goods. (Amended 37 of 1998 s. 6)
3. The fee payable for designation, or renewal of designation, of a driving school shall be \$18150. (Amended L.N. 174 of 2005; L.N. 50 of 2014)

(Schedule 9 added 27 of 1989 s. 3)

Schedule:	10	<b>Requirements Applicable to Vehicle Emission Testing Centres</b>	L.N. 90 of 2015; L.N. 171 of 2015	01/08/2015
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[sections 77C, 77D, 77F & 77H]

1. A vehicle emission testing centre shall be equipped, staffed, operated and maintained, and the testing of motor vehicles shall be conducted, in accordance with any code of practice issued and from time to time revised by the Commissioner under section 77F(1)(a).
2. Testing of motor vehicles at the vehicle emission testing centre shall be carried out only by an approved vehicle emission tester, and under the general supervision of a responsible person.
3. Notice shall be given by the proprietor to the Commissioner forthwith of any change-
  - (a) of an approved vehicle emission tester employed at the vehicle emission testing centre;
  - (b) of a responsible person employed at the vehicle emission testing centre; and
  - (c) in the ownership of the vehicle emission testing centre, or the financial status of the proprietor, or any other matter specified by the Commissioner.
4. Subject to any practice laid down in the code of practice, the vehicle emission testing centre shall test any motor

vehicle produced to it for testing for purposes of Part 8A of the Ordinance.

5. Notices in a form approved by the Commissioner shall be prominently displayed at the vehicle emission testing centre indicating and stating-
- (a) that the place is a vehicle emission testing centre;
  - (b) the hours that the vehicle emission testing centre is open for business;
  - (c) the names of the approved vehicle emission testers, and of the responsible person at the vehicle emission testing centre;
  - (d) the fees that are charged at the vehicle emission testing centre;
  - (e) the addresses of other vehicle emission testing centres within Hong Kong;
  - (f) the circumstances under which the issue of a certificate of compliance may be refused;
  - (g) the procedure that may be followed upon a refusal to issue a certificate of compliance; and
  - (h) a warning against the commission of offences under the Prevention of Bribery Ordinance (Cap 201) and the Independent Commission Against Corruption Ordinance (Cap 204).

6. Fees

- |     |  |                                    |
|-----|--|------------------------------------|
| (a) | Fee payable for designation or renewal of designation of a place as a vehicle emission testing centre.   | \$2,840                            |
| (b) | Fee payable in respect of a test of a motor vehicle-   |                                    |
|     | (i) for a motor vehicle with a positive-ignition engine;   | \$465                              |
|     | (ii) for a motor vehicle with a compression-ignition engine and having a permitted gross vehicle weight not exceeding 5.5 tonnes;  | \$520                              |
|     | (iii) for a motor vehicle with a compression-ignition engine and having a permitted gross vehicle weight exceeding 5.5 tonnes. (Replaced L.N. 90 of 2015 and L.N. 171 of 2015) | \$495                              |
| (c) | Fee payable for supply of form of certificate of compliance.   | \$30 for each form of certificate. |
- (Amended L.N. 273 of 1994; L.N. 500 of 1996; L.N. 585 of 1997)  
(Schedule 10 Added 3 of 1991 s. 13. Amended E.R. 2 of 2012)

Schedule:	11	<b>Offences Specified for the Purposes of Section 72A</b>	L.N. 100 of 2013	31/05/2013
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[section 72A]

Any offence mentioned in the Schedule to the Road Traffic (Driving-offence Points) Ordinance (Cap 375) other than an offence mentioned in item 1, 1A, 2, 4, 4A, 4B, 4C, 5, 5B, 6, 8, 9, 10, 11, 13, 14, 15, 18, 19, 20, 28, 28A, 28D, 29, 32, 33, 33A, 33D, 34, 37A, 37D, 37G, 37J, 37K, 38, 42, 43, 46, 47, 49A, 49D, 49G, 49J, 49K, 50, 54, 55, 58 or 59 of that Schedule.

(Schedule 11 added 3 of 2002 s. 6. Amended 23 of 2008 s. 22; 19 of 2010 s. 23; L.N. 100 of 2013)

Schedule:	12	<b>Requirements Applicable to Driving Improvement Schools</b>	E.R. 2 of 2012	02/08/2012
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[sections 102A, 102B, 102C,  
102F & 102G]

1. Only driving improvement course instructors who have been authorized by the Commissioner and who meet such conditions as may be specified by the Commissioner in the designation concerned may give driving improvement courses.
2. Notice shall be given by the proprietor of a driving improvement school to the Commissioner immediately if-
  - (a) there is any change in the persons employed at the school who are authorized to sign attendance certificates or course certificates under section 102E of this Ordinance;
  - (b) there is any change in the particulars of the proprietor of the school, or any other matter specified by

the Commissioner by notice in writing to the proprietor which relates to the school; or (Amended 6 of 2012 s. 9)

- (c) grounds exist for a creditor to present a bankruptcy petition against the proprietor or the proprietor has entered into liquidation or has entered into any composition with his creditors or has suffered any distress or execution to be levied upon his goods.

3. The Commissioner may from time to time determine the fees payable for designation, or renewal of designation, of a driving improvement school.
4. The Commissioner shall cause notice of the fees he has determined under section 3 to be published in the Gazette.
5. A notice under section 4 is not subsidiary legislation.

(Schedule 12 added 3 of 2002 s. 7)

Schedule:	13	<b>Requirements Applicable to Pre-service Training Schools</b>	E.R. 2 of 2012	02/08/2012
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[sections 102I & 102N]

1. Only pre-service course instructors who have been authorized by the Commissioner and who meet all conditions that may be specified by the Commissioner in the designation concerned may give pre-service courses.
2. Notice must be given by the proprietor of a pre-service training school to the Commissioner immediately if—
  - (a) there is any change in the persons employed at the school who are authorized to sign attendance certificates or course certificates under section 102L;
  - (b) there is any change in the particulars of the proprietor of the school, or any other matter specified by the Commissioner by notice in writing to the proprietor which relates to the school; or
  - (c) grounds exist for a creditor to present a bankruptcy petition against the proprietor or the proprietor has entered into liquidation or has entered into any composition with the proprietor's creditors or has suffered any distress or execution to be levied upon the proprietor's goods.
3. In this Schedule—  
*attendance certificate* (修習證書), *course certificate* (課程證書), *designation* (指定) and *proprietor* (東主) have the meaning given by section 102H.

(Schedule 13 added 6 of 2012 s. 10)