

Electronic Traffic Enforcement (Miscellaneous Amendments) Bill 2023

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A BILL

To

Amend the Fixed Penalty (Traffic Contraventions) Ordinance, the Fixed Penalty (Criminal Proceedings) Ordinance, the Road Traffic Ordinance and their subsidiary legislation to facilitate the electronic enforcement of certain contraventions and traffic offences without changing the levels of relevant penalties, and the provision of and making of demand for information relating to traffic offences or accidents by electronic means; to empower the Commissioner of Police to specify the forms of certain notices issued under those Ordinances; to prescribe the information that must be contained in those notices; to adapt certain provisions to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China; and to make related and miscellaneous amendments.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Electronic Traffic Enforcement (Miscellaneous Amendments) Ordinance 2023.
- (2) This Ordinance comes into operation on a day to be appointed by the Secretary for Transport and Logistics by notice published in the Gazette.

2. Enactments amended

The enactments specified in Parts 2 to 9 are amended as set out in those Parts.

Part 2

Amendments to Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237)

3. Section 2 amended (interpretation)

(1) Section 2, Chinese text, definition of 憑票泊車機—

Repeal

“義。”

Substitute

“義；”。

(2) Section 2—

Add in alphabetical order

“*demand notice* (繳款通知書) means a notice issued under section 15AA(2) or (5);

e-contact means (電子聯絡方式) has the meaning given by section 2 of the Road Traffic Ordinance (Cap. 374);

fixed penalty notice (定額罰款通知書) means a notice issued under section 15(2);

information system (資訊系統) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

official vehicle (官方汽車) means a motor vehicle owned by—

(a) the Government; or

(b) any of the Offices set up by the Central People's Government in the Hong Kong Special Administrative Region;

registered e-contact means (經登記電子聯絡方式), in relation to a person, means the e-contact means of the person provided to the Commissioner in accordance with regulations made under the Road Traffic Ordinance (Cap. 374);”.

4. Section 3 substituted

Section 3—

Repeal the section

Substitute

“3. Application of Ordinance to official vehicles and public servants

(1) This Ordinance applies to an official vehicle as it applies to a motor vehicle that is not an official vehicle.

(2) This Ordinance applies to a public servant as it applies to a person who is not a public servant.

(3) In this section—

public servant (公務人員) means a person in the public service of—

(a) the Government; or

(b) any of the Offices set up by the Central People’s Government in the Hong Kong Special Administrative Region.”.

5. Section 3AA added

After section 3—

Add

“3AA. Contravention committed in respect of official vehicles

If a contravention is committed in respect of an official vehicle, the person liable for the fixed penalty is the driver of the vehicle at the time of the contravention.”.

6. Section 13 amended (fixed penalty)

Section 13, Chinese text—

Repeal

“立法局”

Substitute

“立法會”.

7. Section 14A added

After section 14—

Add

“14A. Interpretation of sections 15, 15AA, 15AAB, 15AAD, 15AAE and 15AAF

(1) In sections 15, 15AA, 15AAB, 15AAD, 15AAE and 15AAF—

electronic record (電子紀錄) has the meaning given by section 2(1) of the ETO;

ETO (《電子交易條例》) means the Electronic Transactions Ordinance (Cap. 553);

person liable (責任人), in relation to a motor vehicle in respect of which a contravention is being or has been committed, means—

(a) the registered owner of the motor vehicle; or

- (b) if the motor vehicle is an official vehicle—the driver of the vehicle at the time of the contravention;

police officer (警務人員) includes—

- (a) a member of the Hong Kong Auxiliary Police Force; and
- (b) a traffic warden;

prescribed information (訂明資料) means the information prescribed in regulation 2 of the Fixed Penalty (Traffic Contraventions) Regulations (Cap. 237 sub. leg. A) for the purposes of section 15(5)(b) or (6)(b) or 15AAB(3)(b) or (4)(b).

- (2) In section 15(4)(b) or 15AAB(2)(b), the reference to sending an electronic fixed penalty notice or electronic demand notice (as the case may be) in the form of an electronic record through a registered e-contact means is to be construed as—
 - (a) if the registered e-contact means is an electronic mail address—sending the notice to the electronic mail address by an electronic mail; or
 - (b) if the registered e-contact means is a telephone number—sending the notice to the telephone number by an SMS message as defined by section 3(1) of the Unsolicited Electronic Messages Regulation (Cap. 593 sub. leg. A).”

8. Section 15 substituted

Section 15—

Repeal the section

Substitute

“15. Fixed penalty notice

- (1) This section applies if a police officer has reasonable cause to believe that a contravention is being or has been committed in respect of a motor vehicle.
- (2) The police officer may issue a notice in respect of the contravention giving the person liable an opportunity to discharge liability for that contravention by payment of the fixed penalty specified in the notice.
- (3) A fixed penalty notice must be served by a police officer by—
 - (a) delivering the notice personally to the person in charge of the motor vehicle; or
 - (b) fixing the notice on the motor vehicle.
- (4) A fixed penalty notice may otherwise be served, within 12 hours after the contravention comes to the knowledge of a police officer, by—
 - (a) making the notice available for inspection by the person liable by means of an information system designated by the Commissioner of Police; and
 - (b) as soon as reasonably practicable after making the notice available for inspection, sending an electronic fixed penalty notice in the form of an electronic record through the registered e-contact means of the person.
- (5) A fixed penalty notice must—
 - (a) be in the specified form; and
 - (b) contain the prescribed information.
- (6) An electronic fixed penalty notice must—
 - (a) be in the specified form; and

- (b) contain the prescribed information.
- (7) If there is any inconsistency between the information contained in the fixed penalty notice made available for inspection under subsection (4)(a) and that in the corresponding electronic fixed penalty notice sent under subsection (4)(b), the fixed penalty notice prevails over the electronic fixed penalty notice to the extent of the inconsistency.
- (8) A failure to comply with subsection (3) or (4) does not affect the operation of this section or section 15AA or 16.”.

9. Sections 15AA to 15AAF added

After section 15—

Add

“15AA. Demand notice

- (1) Subsection (2) applies if the fixed penalty specified in a fixed penalty notice is not paid within 21 days after the date of the contravention specified in the notice.
- (2) A police officer must issue to the person liable a notice requiring the person to, within 10 days after the date of the notice—
 - (a) pay the fixed penalty; or
 - (b) notify the Commissioner of Police that the person wishes to dispute liability for the contravention.
- (3) However, a demand notice under subsection (2) must not be issued if—

-
- (a) the Commissioner of Police is of the opinion that no further proceedings should be taken in respect of the contravention; or
 - (b) 6 months beginning on the date of the contravention have expired.
- (4) Subsection (5) applies if the Commissioner of Police has reasonable cause to believe that a contravention is being or has been committed in respect of an official vehicle.
- (5) Even if a fixed penalty notice has not been issued under section 15(2) in respect of the contravention, the Commissioner of Police may issue to the person liable a demand notice in respect of the contravention requiring the person to, within 31 days after the date of the notice—
- (a) pay the fixed penalty specified in the notice for discharging any liability for the contravention; or
 - (b) notify the Commissioner of Police that the person wishes to dispute liability for the contravention.
- (6) A demand notice under subsection (5) must be issued—
- (a) within 1 month beginning on the date of the contravention; or
 - (b) if the identity, address or registered e-contact means of the person liable cannot be ascertained within 7 days beginning on the date of the contravention—within 6 months beginning on the date of the contravention.

15AAB. Supplementary provisions to section 15AA

- (1) A demand notice must be served on the person liable by post—
 - (a) to the registered address of the person; or
 - (b) if the motor vehicle concerned is an official vehicle—
 - (i) to the registered address of the person; or
 - (ii) to the address of the place where the person normally works.
- (2) A demand notice may otherwise be served by—
 - (a) making the notice available for inspection by the person liable by means of an information system designated by the Commissioner of Police; and
 - (b) as soon as reasonably practicable after making the notice available for inspection, sending an electronic demand notice in the form of an electronic record through the registered e-contact means of the person.
- (3) A demand notice must—
 - (a) be in the specified form; and
 - (b) contain the prescribed information.
- (4) An electronic demand notice must—
 - (a) be in the specified form; and
 - (b) contain the prescribed information.
- (5) If there is any inconsistency between the information contained in the demand notice made available for inspection under subsection (2)(a) and that in the corresponding electronic demand notice sent under

subsection (2)(b), the demand notice prevails over the electronic demand notice to the extent of the inconsistency.

15AAC. Time limit for payment of fixed penalty

Subject to section 20B, no payment of the fixed penalty specified in a demand notice may be accepted after the expiry of the period for making the payment specified in the notice.

15AAD. Dispute liability electronically

- (1) This section applies if—
 - (a) the person on whom a demand notice is served under section 15AAB(1) or (2) (*specified person*) wishes to dispute liability for the contravention specified in the notice; and
 - (b) the specified person wishes to send a notice to that effect in the form of an electronic record (*electronic record*) to the Commissioner of Police.
- (2) The electronic record must be—
 - (a) signed by the specified person; and
 - (b) sent to the information system designated by the Commissioner of Police (*information system*).
- (3) The electronic record is taken to have been received by the Commissioner of Police if—
 - (a) the electronic record is sent in accordance with subsection (2)(b);
 - (b) the electronic record is accepted by the information system; and

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- (c) the information system generates a record confirming the acceptance.
- (4) The requirement for a signature on the electronic record under subsection (2)(a) is met by—
- (a) if the specified person is a natural person—
- (i) a digital signature of the specified person; or
- (ii) a password of that person assigned or approved under subsection (5); and
- (b) if the specified person is a corporation—
- (i) a digital signature of a person who is authorized by the specified person to send the electronic record for the specified person; and
- (ii) a password of the specified person assigned or approved under subsection (5).
- (5) The Commissioner of Police may, for enabling a person to send an electronic record under subsection (2)(b), assign or approve any sequence or combination of letters, characters, numbers or symbols as the person's password.
- (6) A person whose digital signature has been affixed on the electronic record under subsection (4)(b)(i) is, in the absence of evidence to the contrary, to be regarded as a person who is authorized by the specified person to send the record for the specified person.
- (7) In this section—
- digital signature*** (數碼簽署) means a digital signature within the meaning of section 2 of the ETO that meets the requirements specified in section 15AAE.

15AAE. Requirements specified for digital signature under section 15AAD(7)

- (1) The requirements specified for the definition of *digital signature* in section 15AAD(7) are that—
- (a) the digital signature is supported by a recognized certificate;
 - (b) the digital signature is generated within the validity of the certificate; and
 - (c) the digital signature is used in accordance with the terms of that certificate.

- (2) In this section—

certification authority (核證機關) has the meaning given by section 2(1) of the ETO;

recognized certificate (認可證書) has the meaning given by section 2(1) of the ETO;

recognized certification authority (認可核證機關) has the meaning given by section 2(1) of the ETO;

within the validity of the certificate (在該證書的有效期內) means that at the time the digital signature is generated—

- (a) the certificate that supports the digital signature has not been revoked or suspended by the certification authority that issued the certificate;
- (b) the recognition of the certificate has not been revoked or suspended by the Government Chief Information Officer;
- (c) if it is a certificate designated as a recognized certificate issued by the recognized certification authority referred to in section 34 of the

- ETO—the designation has not been withdrawn by the certification authority;
- (d) if the Government Chief Information Officer has specified a period of validity for the recognition of the certificate—the certificate is within that period; and
 - (e) if the recognized certification authority has specified a period of validity for the certificate—the certificate is within that period.

15AAF. Certificate of service

- (1) A certificate of service in the prescribed form purporting to be signed by or for the Commissioner of Police is admissible in evidence without further proof on its production to the magistrate.
- (2) The certificate may state the following matters—
 - (a) the demand notice specified in the certificate has been served on the person liable by post under section 15AAB(1); or
 - (b) the demand notice specified in the certificate has been made available for inspection by the person liable under section 15AAB(2)(a) and the corresponding electronic demand notice has been sent under section 15AAB(2)(b).
- (3) Unless the contrary is proved—
 - (a) it is presumed that the certificate is signed by or for the Commissioner of Police; and
 - (b) the certificate is evidence of the facts stated in it.”.

10. Section 15A amended (withdrawal of notice of fixed penalty)

(1) Section 15A, heading—

Repeal

“notice of fixed penalty”

Substitute

“demand notice”.

(2) Section 15A(1)—

Repeal

“Where a notice under section 15(3)”

Substitute

“If a demand notice”.

(3) Section 15A(1)—

Repeal

“him”

Substitute

“that person”.

(4) Section 15A(2)—

Repeal

“Where a notice under section 15(3)”

Substitute

“If a demand notice”.

(5) Section 15A(2), English text—

Repeal

“shall”

Substitute

“must”.

11. Section 16 amended (recovery of fixed penalty)

(1) Section 16(1)—

Repeal

“Where a person on whom a notice under section 15(3)”

Substitute

“If a person on whom a demand notice”.

(2) Section 16(1)—

Repeal

“he”

Substitute

“that person”.

(3) Section 16(1), English text—

Repeal

“shall”

Substitute

“must”.

(4) Section 16(2)—

Repeal

“Where a person on whom a notice under section 15(3)”

Substitute

“If a person on whom a demand notice”.

(5) Section 16(2)—

Repeal

“he”

Substitute

“that person”.

- (6) Section 16(2), English text—

Repeal

“shall”

Substitute

“must”.

- (7) Section 16(2), English text—

Repeal

“him”

Substitute

“that person”.

12. Section 16A amended (review of proceedings)

- (1) Section 16A(1)—

Repeal

“Where a magistrate is satisfied that the notice mentioned in section 15(3) has not come to the personal notice of the person liable”

Substitute

“If a magistrate is satisfied that the demand notice has not come to the personal notice of the person to whom the demand notice is addressed”.

- (2) Section 16A(1)(a), Chinese text—

Repeal

“意欲就該宗”

Substitute

“有意就有關”.

- (3) Section 16A(1)(b), English text—

Repeal

“he does”

Substitute

“that person does”.

- (4) Section 16A(1)(b)(i)—

Repeal

“him”

Substitute

“that person”.

- (5) Section 16A(1)(b)(ii)—

Repeal

“he fails”

Substitute

“that person fails”.

- (6) Section 16A(1)(b)(ii)—

Repeal

“he shall be”

Substitute

“that person is”.

- (7) Section 16A(1)(b), Chinese text—

Repeal

“並不意欲”

Substitute

“無意”.

13. Section 19 amended (proof in proceedings under section 16 or 18)

- (1) Section 19, English text—

Repeal

“Notwithstanding”

Substitute

“Despite”.

- (2) Section 19, English text—

Repeal

“shall be made upon”

Substitute

“must be made on”.

- (3) Section 19—

Repeal paragraph (a)

Substitute

“(a) the following document together with a certificate under section 15AAF that relates to the service of the document—

- (i) a copy of the demand notice; or
- (ii) if the demand notice is served under section 15AAB(2), printed copies of—
 - (A) the demand notice; and
 - (B) the corresponding electronic demand notice; and”.

14. Section 20B amended (payment of fixed penalty after issue of summons)

- (1) Section 20B(1)—

Repeal

“Notwithstanding”

Substitute

“Despite the fact”.

- (2) Section 20B(1)—

Repeal

“notice served on him under section 15(3), that he”

Substitute

“demand notice served on the person under section 15AAB(1) or (2), that the person”.

- (3) Section 20B(1)—

Repeal

“shall thereupon”

Substitute

“must on payment of the sum”.

- (4) Section 20B, Chinese text—

Repeal subsection (3)

Substitute

“(3) 立法會可藉決議，修訂第(1)款所指明的款額。”.

15. Section 21 amended (evidence by certificate and presumptions)

- (1) Section 21(1)(a), Chinese text—

Repeal

everything before “的登記”

Substitute

“(a) 在某特定時間，該證明書所指明的人，是某特定車輛”.

- (2) Section 21(1)(b)—

Repeal

everything after “address of”

Substitute

“the person or, in the case of a driver, the registered address of the driver or the address of the place where the driver normally worked;”.

- (3) After section 21(1)(b)—

Add

“(ba) that the e-contact means specified in it was at any particular time the registered e-contact means of the registered owner or the driver, as the case may be, of a particular vehicle; and”.

- (4) Section 21(1)(c)—

Repeal

“notice under section 15(3)”

Substitute

“demand notice”.

- (5) Section 21(1)(c)—

Repeal

“he”

Substitute

“the person”.

- (6) Section 21(1)—

Repeal

“shall be admitted”

Substitute

“is admissible”.

- (7) Section 21(1)(i), English text—

Repeal

“shall be presumed”

Substitute

“is presumed”.

- (8) Section 21(1)(ii)—

Repeal

“shall be prima facie evidence of the facts stated therein”

Substitute

“is evidence of the facts stated in it”.

16. Section 22 amended (other orders at conclusion of proceedings)

- (1) Section 22(2)(b), English text—

Repeal

“shall”

Substitute

“must”.

- (2) Section 22(2)(b)(ii)—

Repeal

“of the regulations”

Substitute

“of those Regulations”.

- (3) Section 22, Chinese text—

Repeal subsection (6)

Substitute

“(6) 立法會可藉決議，修訂第(1)或(2)(a)款所指明的任何款額。”.

17. Section 25 amended (power to make regulations)

(1) Section 25—

Renumber the section as section 25(1).

(2) Section 25(1), Chinese text—

Repeal paragraph (b)

Substitute

“(b) 指明可向何人及在何處繳付定額罰款或附加罰款；”。

(3) After section 25(1)—

Add

“(2) A regulation under subsection (1) may authorize the following matters to be specified by the Commissioner of Police in a form specified under section 26(1)—

(a) the person to whom and the place at which a fixed penalty or an additional penalty may be paid; and

(b) how a fixed penalty or an additional penalty may be paid.”。

18. Sections 26, 27 and 28 added

After section 25—

Add

“26. Commissioner of Police may specify forms of notices

(1) The Commissioner of Police may, by notice published in the Gazette, specify the forms of the following notices—

(a) a fixed penalty notice;

(b) a demand notice;

- (c) an electronic fixed penalty notice under section 15(4)(b); and
 - (d) an electronic demand notice under section 15AAB(2)(b).
- (2) A notice in the form specified under subsection (1)(a) or (b) is valid if the name of the Commissioner of Police or a police officer authorized by the Commissioner of Police is printed, signed or otherwise shown on the notice.
 - (3) A notice published in the Gazette under subsection (1) is not subsidiary legislation.

27. Designation of information system by Commissioner of Police

- (1) The Commissioner of Police may, by notice published in the Gazette, designate an information system for the purposes of section 15(4)(a), 15AAB(2)(a) or 15AAD(2)(b).
- (2) A notice published in the Gazette under subsection (1) is not subsidiary legislation.

28. Transitional provisions for notices in prescribed forms issued before commencement date

- (1) For a notice in Form 1 or 2 in the pre-amended Schedule issued before the commencement date, the pre-amended Ordinance and the pre-amended Regulations apply in respect of the notice as if Parts 2 and 3 of the amending Ordinance had not been enacted.
- (2) If a person pays the fixed penalty specified in the notice under subsection (1), regulation 3(2), (3), (4) and (6) of the pre-amended Regulations applies to

the payment as if the payment were made under regulation 3(1) of the pre-amended Regulations.

(3) This section expires on the expiry of 24 months after the commencement date.

(4) In this section—

amending Ordinance (《修訂條例》) means the Electronic Traffic Enforcement (Miscellaneous Amendments) Ordinance 2023 (of 2023);

commencement date (生效日期) means the date on which Parts 2 and 3 of the amending Ordinance come into operation;

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before the commencement date;

pre-amended Regulations (《原有規例》) means the Fixed Penalty (Traffic Contraventions) Regulations (Cap. 237 sub. leg. A) as in force immediately before the commencement date;

pre-amended Schedule (原有附表) means the Schedule to the pre-amended Regulations as in force immediately before the commencement date.”.

19. Schedule 1 amended (recognized defences)

Schedule 1—

Repeal

“[s. 12(1)]”

Substitute

“[s. 12 & Sch. 2]”.

Part 3

Amendments to Fixed Penalty (Traffic Contraventions) Regulations (Cap. 237 sub. leg. A)

20. Regulation 2 substituted

Regulation 2—

Repeal the regulation

Substitute

“2. Prescribed information

- (1) The information set out in Part 1 of Schedule 2 is prescribed for a fixed penalty notice for the purposes of section 15(5)(b) of the Ordinance.
- (2) The information set out in Part 2 of Schedule 2 is prescribed for an electronic fixed penalty notice for the purposes of section 15(6)(b) of the Ordinance.
- (3) The information set out in Part 3 of Schedule 2 is prescribed for a demand notice for the purposes of section 15AAB(3)(b) of the Ordinance.
- (4) The information set out in Part 4 of Schedule 2 is prescribed for an electronic demand notice for the purposes of section 15AAB(4)(b) of the Ordinance.”.

21. Regulation 2A added

After regulation 2—

Add

“2A. Commissioner of Police may specify matters relating to payment of penalties in specified forms

The Commissioner of Police may, in a form specified under section 26(1) of the Ordinance, specify matters relating to—

- (a) the person to whom and the place at which a fixed penalty or an additional penalty may be paid; and
- (b) how a fixed penalty or an additional penalty may be paid.”.

22. Regulation 3 amended (payment of fixed penalty)

- (1) Regulation 3(1)—

Repeal

“who receives a notice in Form 1 or 2 in the Schedule”

Substitute

“on whom a fixed penalty notice or demand notice (*notice*) is served”.

- (2) Regulation 3(1)(e)—

Repeal

“or”.

- (3) Regulation 3(1)(f)—

Repeal the full stop

Substitute

“; or”.

- (4) After regulation 3(1)(f)—

Add

“(g) through any other payment method specified by the Commissioner of Police under regulation 2A in the notice.”.

(5) Regulation 3(2)—

Repeal

everything after “(b)”

Substitute

“must—

(a) deliver—

(i) the notice to which the payment relates; or

(ii) if the notice is served under section 15(4) or 15AAB(2) of the Ordinance—a printed copy of the notice made available for inspection under section 15(4)(a) or 15AAB(2)(a) of the Ordinance; or

(b) provide the notice number or electronic payment number specified in the notice,

together with the payment in accordance with the payment instructions set out in the notice.”.

23. Regulation 4 amended (certificates under sections 15, 17 and 21)

(1) Regulation 4, heading—

Repeal

“15”

Substitute

“15AAF”.

(2) Regulation 4—

Repeal paragraph (1)

Substitute

- “(1) A certificate of service under section 15AAF(1) of the Ordinance—
- (a) if it states the matter specified in section 15AAF(2)(a) of the Ordinance—must be in accordance with Form 3 in Schedule 1; and
 - (b) if it states the matters specified in section 15AAF(2)(b) of the Ordinance—must be in accordance with Form 3A in Schedule 1.”.

- (3) Regulation 4(2)—

Repeal

everything after “Ordinance”

Substitute

“must be in accordance with Form 4 in Schedule 1.”.

- (4) Regulation 4(3)—

Repeal

everything after “Ordinance”

Substitute

“must be in accordance with Form 5 in Schedule 1.”.

24. Regulation 5 amended (certificate under section 22(4A))

- (1) Regulation 5, English text—

Repeal

“Ordinance shall”

Substitute

“Ordinance must”.

- (2) Regulation 5—

Repeal

“shall be in accordance with Form 6 in the Schedule”

Substitute

“must be in accordance with Form 6 in Schedule 1”.

- (3) Regulation 5—

Repeal

“shall be in accordance with Form 7 in the Schedule”

Substitute

“must be in accordance with Form 7 in Schedule 1”.

25. Schedule amended

- (1) The Schedule—

Repeal

“Schedule”

Substitute

“Schedule 1

[regs. 4 & 5]

Prescribed Forms”.

- (2) Schedule 1—

Repeal Forms 1 and 2.

- (3) Schedule 1, Form 3—

Repeal

“[reg. 4(1)]”.

- (4) Schedule 1, Form 3, before “NOTICE”—

Add

“DEMAND”.

- (5) Schedule 1, Form 3—

Repeal

“15(6)”

Substitute

“15AAF(2)(a)”.

- (6) Schedule 1, Form 3—

Repeal

“Notice under section 15(3) of the Fixed Penalty (Traffic Contraventions) Ordinance was posted”

Substitute

“Demand Notice was posted to the addressee at the address below under section 15AAB(1) of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237)”.

- (7) Schedule 1, Form 3—

Repeal

“Serial”

Substitute

“Notice”.

- (8) Schedule 1, after Form 3—

Add

“Form 3A

Fixed Penalty (Traffic Contraventions) Ordinance
(Chapter 237)

CERTIFICATE OF ELECTRONIC SERVICE OF
DEMAND NOTICE
(Section 15AAF(2)(b))

This is to certify that

beginning on the _____ day of _____ a Demand Notice was made available for inspection by the addressee below under section 15AAB(2)(a) of the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237), and on the _____ day of _____ a corresponding Electronic Demand Notice was sent by electronic means to the addressee through the registered e-contact means below under section 15AAB(2)(b) of that Ordinance. The particulars of the Notices are as follows—

Notice No. of Demand Notice
and Electronic Demand Notice: _____

Date of Demand Notice: _____

Date of Electronic Demand Notice: _____

Name of Addressee: _____

Registered e-contact Means: _____

Date: _____

for Commissioner of Police.

(Full name in block letters)".

- (9) Schedule 1, Form 4—

Repeal

“[reg. 4(2)]”.

- (10) Schedule 1, Form 5—

Repeal

“[reg. 4(3)]”.

- (11) Schedule 1, Form 5, after “ADDRESS”—

Add

“, REGISTERED e-CONTACT MEANS”.

- (12) Schedule 1, English text, Form 5, paragraph (b)—

Repeal

“such”

Substitute

“the”.

- (13) Schedule 1, Form 5, after paragraph (b)—

Add

“(ba) # on the day of
the registered e-contact means of the person
was;”.

- (14) Schedule 1, English text, Form 5, paragraph (c)—

Repeal

“such”

Substitute

“the”.

- (15) Schedule 1, Form 5, paragraph (d)—

Repeal

everything after “specified in”

Substitute

“the Demand Notice (Notice No.) dated the day of; and”.

- (16) Schedule 1, English text, Form 5, paragraph (e)—

Repeal

“such”

Substitute

“the”.

- (17) Schedule 1, Form 5, paragraph (e)—

Repeal

“he”

Substitute

“the person”.

- (18) Schedule 1, Form 5—

Repeal

“† Insert date on which notice under section 15(3) in respect of such contravention was posted.”

Substitute

“† Insert date on which the demand notice in respect of the contravention was posted.

Insert the date that the electronic demand notice was sent.”.

- (19) Schedule 1, Form 5—

Repeal

“such proceedings”

Substitute

“the proceedings”.

(20) Schedule 1, Form 5—

Repeal

“in the notice under section 15(3)”

Substitute

“in the demand notice”.

(21) Schedule 1, Forms 6 and 7—

Repeal

“[reg. 5]”.

26. Schedule 2 added

After Schedule 1—

Add

“Schedule 2

[reg. 2]

Prescribed Information

Part 1

Fixed Penalty Notice

1. The notice number
2. The registration mark of the motor vehicle concerned
3. The following information relating to the alleged contravention—
 - (a) the statutory provision contravened;

- (b) the time, date and location of the contravention;
 - (c) the code number representing the contravention
- 4. The following information relating to the fixed penalty—
 - (a) the amount of the penalty;
 - (b) the e-payment number and bill type;
 - (c) the payment method;
 - (d) the period for making the payment;
 - (e) the consequence for failing to make the payment within the period or to dispute liability for the alleged contravention
- 5. The method of enquiry
- 6. Any of the following particulars of the person authorized to issue the fixed penalty notice—
 - (a) the police number;
 - (b) if the person is a traffic warden—the number of the identity card issued to the person under section 59(2) of the Road Traffic Ordinance (Cap. 374)
- 7. The date of the fixed penalty notice

Part 2

Electronic Fixed Penalty Notice

- 1. The notice number
- 2. The date of the electronic fixed penalty notice

3. The registration mark of the motor vehicle concerned
4. The following information relating to the alleged contravention—
 - (a) the time, date and location of the contravention;
 - (b) the code number representing the contravention
5. The following information relating to the fixed penalty—
 - (a) the amount of the penalty;
 - (b) the e-payment number and bill type;
 - (c) the period for making the payment
6. How to gain access to an information system designated by the Commissioner of Police through which—
 - (a) the corresponding fixed penalty notice may be inspected; and
 - (b) the following information is provided—
 - (i) the payment method;
 - (ii) the consequence for failing to make the payment or to dispute liability for the alleged contravention;
 - (iii) an explanation of the code number used to represent the contravention;
 - (iv) other matters relating to the contravention or fixed penalty
7. The method of enquiry

Part 3

Demand Notice

1. The notice number
2. The following particulars of the person to whom the demand notice is addressed—
 - (a) the name;
 - (b) the number of the person's identity document as defined by regulation 2(1) of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E)
3. The registration mark of the motor vehicle concerned
4. The following information relating to the alleged contravention—
 - (a) the statutory provision contravened;
 - (b) a description of the contravention;
 - (c) the time, date and location of the contravention
5. The requirement that the person must—
 - (a) pay the fixed penalty; or
 - (b) notify the Commissioner of Police that the person wishes to dispute liability for the alleged contravention
6. The following information relating to the fixed penalty required—
 - (a) the amount of the penalty;

- (b) the e-payment number and bill type;
 - (c) the payment method;
 - (d) the period for making the payment;
 - (e) the consequence for failing to make the payment within the period
7. The following information relating to the notice to dispute liability for the alleged contravention—
 - (a) how to send the notice;
 - (b) the period for giving the notice;
 - (c) the consequence for failing to give the notice within the period
8. The method of enquiry
9. The name and police number of the police officer authorized to issue the demand notice
10. The date of the demand notice

Part 4

Electronic Demand Notice

1. The notice number
2. The date of the electronic demand notice
3. The registration mark of the motor vehicle concerned
4. The following information relating to the alleged contravention—

-
- (a) the time, date and location of the contravention;
 - (b) the code number representing the contravention
5. The following information relating to the fixed penalty required—
- (a) the amount of the penalty;
 - (b) the e-payment number and bill type;
 - (c) the period for making the payment
6. The period for the dispute of liability for the alleged contravention
7. How to gain access to an information system designated by the Commissioner of Police through which—
- (a) the corresponding demand notice may be inspected; and
 - (b) the following information is provided—
 - (i) the payment method;
 - (ii) the consequence for failing to make the payment or to dispute liability for the alleged contravention;
 - (iii) an explanation of the code number used to represent the contravention;
 - (iv) other matters relating to the contravention, fixed penalty or dispute of liability
8. The method of enquiry”.
-

Part 4

Amendments to Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240)

27. Section 2 amended (interpretation)

(1) Section 2(1), Chinese text, definition of 警務人員—

Repeal

“皇家香港輔助警察隊的成員”

Substitute

“香港輔助警察隊的隊員”。

(2) Section 2(1)—

Add in alphabetical order

“*demand notice* (繳款通知書) means a notice issued under section 3AA(2);

e-contact means (電子聯絡方式) has the meaning given by section 2 of the Road Traffic Ordinance (Cap. 374);

electronic record (電子紀錄) has the meaning given by section 2(1) of the ETO;

ETO (《電子交易條例》) means the Electronic Transactions Ordinance (Cap. 553);

fixed penalty notice (定額罰款通知書) means a notice issued under section 3(2);

information system (資訊系統) has the meaning given by section 2(1) of the ETO;

prescribed information (訂明資料) means the information prescribed in regulation 2 of the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg. A) for the purposes of section 3(5)(b) or (6)(b) or 3AAB(3)(b) or (4)(b);

registered e-contact means (經登記電子聯絡方式), in relation to a person, means the e-contact means of the person provided to the Commissioner in accordance with regulations made under the Road Traffic Ordinance (Cap. 374);”.

(3) After section 2(2)—

Add

“(3) In section 3(4)(b) or 3AAB(2)(b), the reference to sending an electronic fixed penalty notice or electronic demand notice (as the case may be) in the form of an electronic record through a registered e-contact means is to be construed as—

- (a) if the registered e-contact means is an electronic mail address—sending the notice to the electronic mail address by an electronic mail; or
- (b) if the registered e-contact means is a telephone number—sending the notice to the telephone number by an SMS message as defined by section 3(1) of the Unsolicited Electronic Messages Regulation (Cap. 593 sub. leg. A).”.

28. Section 3 substituted

Section 3—

Repeal the section

Substitute

“3. Fixed penalty notice

- (1) This section applies if a police officer has reason to believe that a person is committing or has committed a scheduled offence (*person liable*).
- (2) The police officer may issue a notice in respect of the scheduled offence giving the person liable an opportunity to discharge any liability to conviction for that offence by payment of the fixed penalty specified in the notice within 21 days after the date of the notice.
- (3) A fixed penalty notice must be served by a police officer by—
 - (a) delivering the notice personally to the person liable; or
 - (b) fixing the notice on the motor vehicle used or involved in the commission of the scheduled offence.
- (4) A fixed penalty notice may otherwise be served, within 12 hours after the commission of the scheduled offence by the person liable comes to the knowledge of a police officer, by—
 - (a) making the notice available for inspection by the person by means of an information system designated by the Commissioner of Police; and
 - (b) as soon as reasonably practicable after making the notice available for inspection, sending an electronic fixed penalty notice in the form of an electronic record through the registered e-contact means of the person.
- (5) A fixed penalty notice must—
 - (a) be in the specified form; and

- (b) contain the prescribed information.
- (6) An electronic fixed penalty notice must—
 - (a) be in the specified form; and
 - (b) contain the prescribed information.
- (7) If there is any inconsistency between the information contained in the fixed penalty notice made available for inspection under subsection (4)(a) and that in the corresponding electronic fixed penalty notice sent under subsection (4)(b), the fixed penalty notice prevails over the electronic fixed penalty notice to the extent of the inconsistency.
- (8) A failure to comply with subsection (3) or (4) does not affect the operation of this section or section 3AA, 3A or 5.”.

29. Sections 3AA to 3AAF added

After section 3—

Add

“3AA. Demand notice

- (1) Subsection (2) applies if the Commissioner of Police is of the opinion that a person alleged to be guilty of a scheduled offence (*person liable*) ought to be proceeded against under this Part in respect of the offence.
- (2) The Commissioner of Police must, as soon as practicable after the commission of the scheduled offence by the person liable, issue to the person liable a demand notice in respect of the scheduled offence requiring the person to, within 21 days after the specified date—

- (a) pay the fixed penalty for discharging any liability to conviction for that offence; or
 - (b) notify the Commissioner of Police that the person wishes to dispute liability for that offence.
- (3) A demand notice must be issued—
- (a) within 1 month beginning on the date of the commission of the scheduled offence; or
 - (b) if the identity, address or registered e-contact means of the person liable cannot be ascertained within 7 days beginning on the date of the commission of that offence—within 6 months beginning on the date of the commission of that offence.
- (4) In this section—
- specified date*** (指明日期), in relation to a demand notice, means the date of the demand notice or the date of the corresponding electronic demand notice under section 3AAB(2)(b) (if any), whichever is the later.

3AAB. Supplementary provisions to section 3AA

- (1) A demand notice must be served on the person to whom it is addressed (***subject person***) by post to the registered address of the person.
- (2) A demand notice may otherwise be served by—
 - (a) making the notice available for inspection by the subject person by means of an information system designated by the Commissioner of Police; and
 - (b) as soon as reasonably practicable after making the notice available for inspection, sending an

electronic demand notice in the form of an electronic record through the registered e-contact means of the person.

- (3) A demand notice must—
 - (a) be in the specified form; and
 - (b) contain the prescribed information.
- (4) An electronic demand notice must—
 - (a) be in the specified form; and
 - (b) contain the prescribed information.
- (5) If there is any inconsistency between the information contained in the demand notice made available for inspection under subsection (2)(a) and that in the corresponding electronic demand notice sent under subsection (2)(b), the demand notice prevails over the electronic demand notice to the extent of the inconsistency.
- (6) If the demand notice is served on a person, no proceedings may be taken against that person in respect of the scheduled offence specified in the notice until the expiry of 21 days after the date of the notice.

3AAC. Effect of payment of fixed penalty

Subject to section 4, if the person on whom the fixed penalty notice or demand notice is served has paid the full amount of the fixed penalty in accordance with the notice, the person is not liable to be prosecuted or convicted for the scheduled offence specified in the notice.

3AAD. Dispute liability electronically

- (1) This section applies if—

-
- (a) the person on whom the demand notice is served under section 3AAB(1) or (2) (*specified person*) wishes to dispute liability for the scheduled offence specified in the notice; and
 - (b) the specified person wishes to send a notice to that effect in the form of an electronic record (*electronic record*) to the Commissioner of Police.
 - (2) The electronic record must be—
 - (a) signed by the specified person; and
 - (b) sent to the information system designated by the Commissioner of Police (*information system*).
 - (3) The electronic record is taken to have been received by the Commissioner of Police if—
 - (a) the electronic record is sent in accordance with subsection (2)(b);
 - (b) the electronic record is accepted by the information system; and
 - (c) the information system generates a record confirming the acceptance.
 - (4) The requirement for a signature on the electronic record under subsection (2)(a) is met by—
 - (a) if the specified person is a natural person—
 - (i) a digital signature of the specified person; or
 - (ii) a password of that person assigned or approved under subsection (5); and
 - (b) if the specified person is a corporation—

- (i) a digital signature of a person who is authorized by the specified person to send the electronic record for the specified person; and
 - (ii) a password of the specified person assigned or approved under subsection (5).
- (5) The Commissioner of Police may, for enabling a person to send an electronic record under subsection (2)(b), assign or approve any sequence or combination of letters, characters, numbers or symbols as the person's password.
- (6) A person whose digital signature has been affixed on the electronic record under subsection (4)(b)(i) is, in the absence of evidence to the contrary, to be regarded as a person who is authorized by the specified person to send the record for the specified person.
- (7) In this section—
digital signature (數碼簽署) means a digital signature within the meaning of section 2 of the ETO that meets the requirements specified in section 3AAE.

3AAE. Requirements specified for digital signature under section 3AAD(7)

- (1) The requirements specified for the definition of *digital signature* in section 3AAD(7) are that—
 - (a) the digital signature is supported by a recognized certificate;
 - (b) the digital signature is generated within the validity of the certificate; and

(c) the digital signature is used in accordance with the terms of that certificate.

(2) In this section—

certification authority (核證機關) has the meaning given by section 2(1) of the ETO;

recognized certificate (認可證書) has the meaning given by section 2(1) of the ETO;

recognized certification authority (認可核證機關) has the meaning given by section 2(1) of the ETO;

within the validity of the certificate (在該證書的有效期內) means that at the time the digital signature is generated—

- (a) the certificate that supports the digital signature has not been revoked or suspended by the certification authority that issued the certificate;
- (b) the recognition of the certificate has not been revoked or suspended by the Government Chief Information Officer;
- (c) if it is a certificate designated as a recognized certificate issued by the recognized certification authority referred to in section 34 of the ETO—the designation has not been withdrawn by the certification authority;
- (d) if the Government Chief Information Officer has specified a period of validity for the recognition of the certificate—the certificate is within that period; and
- (e) if the recognized certification authority has specified a period of validity for the certificate—the certificate is within that period.

3AAF. Certificate of service

- (1) A certificate of service in the prescribed form purporting to be signed by or for the Commissioner of Police is admissible in evidence without further proof on its production to the magistrate.
- (2) The certificate may state the following matters—
 - (a) the demand notice specified in the certificate has been served on the subject person by post under section 3AAB(1); or
 - (b) the demand notice specified in the certificate has been made available for inspection by the subject person under section 3AAB(2)(a) and the corresponding electronic demand notice has been sent under section 3AAB(2)(b).
- (3) Unless the contrary is proved—
 - (a) it is presumed that the certificate is signed by or for the Commissioner of Police; and
 - (b) the certificate is evidence of the facts stated in it.
- (4) In this section—
subject person (收件人)—see section 3AAB(1).”.

30. Section 3A amended (recovery of fixed penalty in certain circumstances)

- (1) Section 3A(1)—

Repeal

“Where a person on whom a notice under section 3(3)”

Substitute

“If a person on whom a demand notice”.

(2) Section 3A(1)—

Repeal

“he”

Substitute

“that person”.

(3) Section 3A(1), English text—

Repeal

“shall”

Substitute

“must”.

(4) Section 3A(1), English text—

Repeal

“him”

Substitute

“that person”.

31. Section 3B amended (review of proceedings)

(1) Section 3B(1)—

Repeal

“Where a magistrate is satisfied that the notice mentioned in section 3(3)”

Substitute

“If a magistrate is satisfied that the demand notice”.

(2) Section 3B(1)(a), Chinese text—

Repeal

“意欲就該”

Substitute

“有意就有關”。

- (3) Section 3B(1)(b), English text—

Repeal

“he does”

Substitute

“that person does”。

- (4) Section 3B(1)(b)(i)—

Repeal

“him”

Substitute

“that person”。

- (5) Section 3B(1)(b)(ii)—

Repeal

“if he”

Substitute

“if that person”。

- (6) Section 3B(1)(b)(ii)—

Repeal

“he shall be”

Substitute

“that person is”。

- (7) Section 3B(1)(b), Chinese text—

Repeal

“並不意欲”

Substitute

“無意”。

32. Section 4 amended (withdrawal of fixed penalty notices)

(1) Section 4, heading—

Repeal

“notices”

Substitute

“notices or demand notices”.

(2) Section 4(1)—

Repeal

“Where a notice under section 3(1) or (3)”

Substitute

“If a fixed penalty notice or demand notice”.

(3) Section 4(1)—

Repeal

“him”

Substitute

“that person”.

(4) Section 4(2)—

Repeal

“Where a notice under section 3(1) or (3)”

Substitute

“If a fixed penalty notice or demand notice”.

(5) Section 4(2)—

Repeal

“pursuant to”

Substitute

“under”.

- (6) Section 4(2), English text—

Repeal

“shall”

Substitute

“must”.

- (7) Section 4(3)—

Repeal

“notice under section 3(1) or (3) shall”

Substitute

“fixed penalty notice or demand notice must”.

33. Section 5 amended (service of summons)

- (1) Section 5(1)—

Repeal

“Where”

Substitute

“If”.

- (2) Section 5(1)—

Repeal paragraph (a)

Substitute

“(a) a person on whom a demand notice has been served under section 3AAB(1) or (2) fails to pay the fixed penalty in accordance with the notice;”.

- (3) Section 5(1)(aa)—

Repeal

“he” (wherever appearing)

Substitute

“the person”.

- (4) Section 5(1)(b), English text—

Repeal

“him”

Substitute

“the person”.

- (5) Section 5(1), English text—

Repeal

“notwithstanding”

Substitute

“despite”.

- (6) Section 5(1)—

Repeal

“therein”

Substitute

“in the summons”.

34. Section 7 amended (proof in absence of defendants)

- (1) Section 7(1), English text—

Repeal

“Notwithstanding”

Substitute

“Despite”.

- (2) Section 7(1), English text—

Repeal

“shall be made upon”

Substitute

“must be made on”.

(3) Section 7(1)—

Repeal paragraph (a)

Substitute

“(a) the following document together with a certificate under section 3AAF that relates to the service of the document—

- (i) a copy of the demand notice; or
- (ii) if the demand notice is served under section 3AAB(2), printed copies of—
 - (A) the demand notice; and
 - (B) the corresponding electronic demand notice; and”.

35. Section 8 substituted

Section 8—

Repeal the section

Substitute

“8. Evidence by certificate

- (1) A certificate of service in the prescribed form purporting to be signed by or for the Commissioner of Police is admissible in evidence without further proof on its production in any proceedings or in any application under section 3A(1).
- (2) The certificate may state any of the following matters—

- (a) the person specified in it (*specified person*) was at the time so specified either the registered owner of the motor vehicle, or the holder of the driving licence, so specified;
 - (b) the address specified in it was at the time so specified the registered address of the specified person;
 - (c) the e-contact means specified in it was at the time so specified the registered e-contact means of the specified person;
 - (d) payment of the fixed penalty in respect of the scheduled offence was not made before the date specified in it;
 - (e) for an application under section 3A(1)—the specified person had not, before the date specified in it, notified the Commissioner of Police that the person wished to dispute liability for the scheduled offence.
- (3) Unless the contrary is proved—
- (a) it is presumed that the certificate is signed by or for the Commissioner of Police; and
 - (b) the certificate is evidence of the facts stated in it.”.

36. Section 9 amended (payment of fixed penalty after issue of summons)

Section 9, Chinese text—

Repeal subsection (3)

Substitute

“(3) 立法會可藉決議，修訂第(1)款所指明的款額。”.

37. Section 9A amended (additional penalty in proceedings on complaint)

(1) Section 9A, English text—

Repeal

“Where”

Substitute

“If”.

(2) Section 9A—

Repeal

“a notice under section 3(3), that he”

Substitute

“the demand notice, that the person”.

(3) Section 9A, English text—

Repeal

“shall”

Substitute

“must”.

38. Section 10 amended (effect of non-payment of fines)

(1) Section 10(1)—

Repeal

“Where”

Substitute

“If”.

(2) Section 10(1)(a)—

Repeal

“a notice served on him under section 3(3)”

Substitute

“the demand notice served on that person”.

- (3) Section 10(1)(a), Chinese text—

Repeal

“他”

Substitute

“該人”.

- (4) Section 10(1)(b) and (c), English text—

Repeal

“he”

Substitute

“that person”.

- (5) Section 10(1)—

Repeal

“shall, notwithstanding”

Substitute

“must, despite”.

- (6) Section 10(1)(i), English text—

Repeal

“his”

Substitute

“that person’s”.

39. Section 11 amended (power to make regulations)

- (1) Section 11—

Renumber the section as section 11(1).

- (2) Section 11(1)(b)—

Repeal

“places at which a fixed penalty”

Substitute

“places at which a fixed penalty or an additional penalty”.

- (3) Section 11(1)(c)—

Repeal

everything after “penalty”

Substitute

“or an additional penalty and the receipt for the payment;”.

- (4) Section 11(1)(d), after “penalty”—

Add

“or an additional penalty”.

- (5) Section 11(1)(d), English text—

Repeal

“him”

Substitute

“the person”.

- (6) After section 11(1)—

Add

“(2) A regulation under subsection (1) may authorize the following matters to be specified by the Commissioner of Police in a form specified under section 11A(1)—

- (a) the person to whom and the place at which a fixed penalty or an additional penalty may be paid; and

- (b) how a fixed penalty or an additional penalty may be paid.”.

40. Sections 11A, 11B and 11C added

After section 11—

Add

“11A. Commissioner of Police may specify forms of notices

- (1) The Commissioner of Police may, by notice published in the Gazette, specify the forms of the following notices—
 - (a) a fixed penalty notice;
 - (b) a demand notice;
 - (c) an electronic fixed penalty notice under section 3(4)(b); and
 - (d) an electronic demand notice under section 3AAB(2)(b).
- (2) A notice in the form specified under subsection (1)(a) or (b) is valid if the name of the Commissioner of Police or a police officer authorized by the Commissioner of Police is printed, signed or otherwise shown on the notice.
- (3) A notice published in the Gazette under subsection (1) is not subsidiary legislation.

11B. Designation of information system by Commissioner of Police

- (1) The Commissioner of Police may, by notice published in the Gazette, designate an information system for the purposes of section 3(4)(a), 3AAB(2)(a) or 3AAD(2)(b).

- (2) A notice published in the Gazette under subsection (1) is not subsidiary legislation.

11C. Transitional provisions for notices in prescribed forms issued before commencement date

- (1) For a notice in Form 1 or 2 in the pre-amended Schedule issued before the commencement date, the pre-amended Ordinance and the pre-amended Regulations apply in respect of the notice as if Parts 4 and 5 of the amending Ordinance had not been enacted.
- (2) If a person pays the fixed penalty specified in the notice under subsection (1), regulation 3(2), (3) and (5) of the pre-amended Regulations applies to the payment as if the payment were made under regulation 3(1) of the pre-amended Regulations.
- (3) This section expires on the expiry of 24 months after the commencement date.
- (4) In this section—

amending Ordinance (《修訂條例》) means the Electronic Traffic Enforcement (Miscellaneous Amendments) Ordinance 2023 (of 2023);

commencement date (生效日期) means the date on which Parts 4 and 5 of the amending Ordinance come into operation;

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before the commencement date;

pre-amended Regulations (《原有規例》) means the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg. A) as in force immediately before the commencement date;

pre-amended Schedule (原有附表) means the Schedule to the pre-amended Regulations as in force immediately before the commencement date.”.

41. Section 12 amended (amendment of Schedule)

Section 12, Chinese text—

Repeal

“立法局”

Substitute

“立法會”.

Part 5

Amendments to Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg. A)

42. Regulation 2 substituted

Regulation 2—

Repeal the regulation

Substitute

“2. Prescribed information

- (1) The information set out in Part 1 of Schedule 2 is prescribed for a fixed penalty notice for the purposes of section 3(5)(b) of the Ordinance.
- (2) The information set out in Part 2 of Schedule 2 is prescribed for an electronic fixed penalty notice for the purposes of section 3(6)(b) of the Ordinance.
- (3) The information set out in Part 3 of Schedule 2 is prescribed for a demand notice for the purposes of section 3AAB(3)(b) of the Ordinance.
- (4) The information set out in Part 4 of Schedule 2 is prescribed for an electronic demand notice for the purposes of section 3AAB(4)(b) of the Ordinance.”.

43. Regulation 2A added

After regulation 2—

Add

“2A. Commissioner of Police may specify matters relating to payment of penalties in specified forms

The Commissioner of Police may, in a form specified under section 11A(1) of the Ordinance, specify matters relating to—

- (a) the person to whom and the place at which a fixed penalty or an additional penalty may be paid; and
- (b) how a fixed penalty or an additional penalty may be paid.”.

44. Regulation 3 amended (payment of fixed penalty)

(1) Regulation 3(1)—

Repeal

“who receives a notice under section 3(1) or (3) of the Ordinance”

Substitute

“on whom a fixed penalty notice or demand notice (*notice*) is served”.

(2) Regulation 3(1)(e)—

Repeal

“or”.

(3) Regulation 3(1)(f)—

Repeal the full stop

Substitute

“; or”.

(4) After regulation 3(1)(f)—

Add

“(g) through any other payment method specified by the Commissioner of Police under regulation 2A in the notice.”.

(5) Regulation 3(2)—

Repeal

everything after “(b)”

Substitute

“must—

(a) deliver—

(i) the notice to which the payment relates; or

(ii) if the notice is served under section 3(4) or 3AAB(2) of the Ordinance—a printed copy of the notice made available for inspection under section 3(4)(a) or 3AAB(2)(a) of the Ordinance; or

(b) provide the notice number or electronic payment number specified in the notice,

together with the payment in accordance with the payment instructions set out in the notice.”.

45. Regulation 3A added

After regulation 3—

Add

“3A. Certificate of service

A certificate of service under section 3AAF(1) of the Ordinance—

(a) if it states the matters specified in section 3AAF(2)(a) of the Ordinance—must be in accordance with Form 2A in Schedule 1; and

(b) if it states the matters specified in section 3AAF(2)(b) of the Ordinance—must be in accordance with Form 2B in Schedule 1.”.

46. Regulation 4 amended (certificate under section 8)

Regulation 4—

Repeal

everything after “Ordinance”

Substitute

“must be in accordance with Form 3 in Schedule 1.”.

47. Regulation 5 amended (certificate under section 10)

Regulation 5—

Repeal

everything after “Ordinance”

Substitute

“must be in accordance with Form 4 in Schedule 1.”.

48. Schedule amended

(1) The Schedule—

Repeal

“Schedule”

Substitute

“Schedule 1

[regs. 3A, 4 & 5]

Prescribed Forms”.

(2) Schedule 1—

Repeal Forms 1 and 2.

(3) Schedule 1, before Form 3—

Add

“Form 2A

Fixed Penalty (Criminal Proceedings) Ordinance
(Chapter 240)

**CERTIFICATE OF POSTING OF DEMAND NOTICE
(Section 3AAF(2)(a))**

This is to certify that

on the _____ day of _____ a Demand Notice was posted to the addressee at the address below under section 3AAB(1) of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240). The particulars of the Notice are as follows—

Notice No.: _____

Date of Notice: _____

Name of Addressee: _____

Address: _____

Date: _____

for Commissioner of Police.

(Full name in block letters)

Form 2B

Fixed Penalty (Criminal Proceedings) Ordinance
(Chapter 240)

CERTIFICATE OF ELECTRONIC SERVICE OF
DEMAND NOTICE
(Section 3AAF(2)(b))

This is to certify that

beginning on the _____ day of _____ a Demand Notice was made available for inspection by the addressee below under section 3AAB(2)(a) of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240), and on the _____ day of _____ a corresponding Electronic Demand Notice was sent by electronic means to the addressee through the registered e-contact means below under section 3AAB(2)(b) of that Ordinance. The particulars of the Notices are as follows—

Notice No. of Demand Notice _____
and Electronic Demand Notice: _____

Date of Demand Notice: _____

Date of Electronic Demand Notice: _____

Name of Addressee: _____

Registered e-contact Means: _____

Date: _____

for Commissioner of Police.

(Full name in block letters)".

- (4) Schedule 1, Form 3—

Repeal

“[reg. 4]”.

- (5) Schedule 1, Form 3, after “ADDRESS”—

Add

“, REGISTERED e-CONTACT MEANS”.

- (6) Schedule 1, Form 3, after paragraph B—

Add

“BA. On the _____ the registered
e-contact means of the person specified at A above
was— ”.

- (7) Schedule 1, Form 3, after paragraph D—

Add

“DA. On the _____ the registered
e-contact means of the person specified at C above
was— ”.

- (8) Schedule 1, Form 3, paragraph F—

Repeal

“specified in a notice under section 3(3) of the Ordinance,”

Substitute

“(Cap. 240) specified in the Demand Notice”.

- (9) Schedule 1, Form 4—

Repeal

“[reg. 5]”.

49. Schedule 2 added

After Schedule 1—

Add

“Schedule 2

[reg. 2]

Prescribed Information

Part 1

Fixed Penalty Notice

1. The notice number
2. The registration mark of the motor vehicle concerned
3. The following information relating to the alleged scheduled offence—
 - (a) the statutory provision contravened;

- (b) the time, date and location of the commission of the offence;
 - (c) the code number representing the offence
- 4. The following information relating to the fixed penalty—
 - (a) the amount of the penalty;
 - (b) the e-payment number and bill type;
 - (c) the payment method;
 - (d) the period for making the payment;
 - (e) the consequence for failing to make the payment within the period or to dispute liability for the alleged scheduled offence
- 5. The method of enquiry
- 6. The police number of the police officer authorized to issue the fixed penalty notice
- 7. The date of the fixed penalty notice

Part 2

Electronic Fixed Penalty Notice

- 1. The notice number
- 2. The date of the electronic fixed penalty notice
- 3. The registration mark of the motor vehicle concerned
- 4. The following information relating to the alleged scheduled offence—

-
- (a) the time, date and location of the commission of the offence;
 - (b) the code number representing the offence
 5. The following information relating to the fixed penalty—
 - (a) the amount of the penalty;
 - (b) the e-payment number and bill type;
 - (c) the period for making the payment
 6. How to gain access to an information system designated by the Commissioner of Police through which—
 - (a) the corresponding fixed penalty notice may be inspected; and
 - (b) the following information is provided—
 - (i) the payment method;
 - (ii) the consequence for failing to make the payment or to dispute liability for the alleged scheduled offence;
 - (iii) an explanation of the code number used to represent the offence;
 - (iv) other matters relating to the offence or fixed penalty
 7. The method of enquiry

Part 3

Demand Notice

1. The notice number

2. The following particulars of the person to whom the demand notice is addressed—
 - (a) the name;
 - (b) the number of the person's identity document as defined by regulation 2(1) of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E)
3. The registration mark of the motor vehicle concerned
4. The following information relating to the alleged scheduled offence—
 - (a) the statutory provision contravened;
 - (b) a description of the offence;
 - (c) the time, date and location of the commission of the offence
5. The requirement that the person must—
 - (a) pay the fixed penalty; or
 - (b) notify the Commissioner of Police that the person wishes to dispute liability for the alleged scheduled offence
6. The following information relating to the fixed penalty required—
 - (a) the amount of the penalty;
 - (b) the e-payment number and bill type;
 - (c) the payment method;
 - (d) the period for making the payment;

- (e) the consequence for failing to make the payment within the period
7. The following information relating to the notice to dispute liability for the alleged scheduled offence—
 - (a) how to send the notice;
 - (b) the period for giving the notice;
 - (c) the consequence for failing to give the notice within the period
 8. The method of enquiry
 9. The name and police number of the police officer authorized to issue the demand notice
 10. The date of the demand notice

Part 4

Electronic Demand Notice

1. The notice number
2. The date of the electronic demand notice
3. The registration mark of the motor vehicle concerned
4. The following information relating to the alleged scheduled offence—
 - (a) the time, date and location of the commission of the offence;
 - (b) the code number representing the offence

-
5. The following information relating to the fixed penalty required—
 - (a) the amount of the penalty;
 - (b) the e-payment number and bill type;
 - (c) the period for making the payment
 6. The period for the dispute of liability for the alleged scheduled offence
 7. How to gain access to an information system designated by the Commissioner of Police through which—
 - (a) the corresponding demand notice may be inspected; and
 - (b) the following information is provided—
 - (i) the payment method;
 - (ii) the consequence for failing to make the payment or to dispute liability for the alleged scheduled offence;
 - (iii) an explanation of the code number used to represent the offence;
 - (iv) other matters relating to the offence, fixed penalty or dispute of liability
 8. The method of enquiry”.
-

Part 6

Amendments to Road Traffic Ordinance (Cap. 374)

50. Section 2 amended (interpretation)

Section 2—

Add in alphabetical order

“*e-contact means* (電子聯絡方式), in relation to a person, means—

- (a) an electronic mail address through which the person can be contacted by an electronic mail; or
- (b) a telephone number in the numbering plan as defined by section 2(1) of the Telecommunications Ordinance (Cap. 106) through which the person can be contacted by an SMS message;

SMS message (短訊) has the meaning given by section 3(1) of the Unsolicited Electronic Messages Regulation (Cap. 593 sub. leg. A);”.

51. Section 62A added

After section 62—

Add

“62A. Interpretation of sections 63A, 63B, 63C, 63D, 63E, 63F and 63G

In sections 63A, 63B, 63C, 63D, 63E, 63F and 63G—
demand notice (要求通知書)—see section 63A(1);

driver concerned (涉事司機) has the meaning given by section 63(4);

electronic message (電子訊息) means—

- (a) an electronic mail; or
- (b) an SMS message;

electronic record (電子紀錄) has the meaning given by section 2(1) of the ETO;

ETO (《電子交易條例》) means the Electronic Transactions Ordinance (Cap. 553);

information system (資訊系統) has the meaning given by section 2(1) of the ETO;

personal particulars (個人詳情) has the meaning given by section 63(4).”

52. Section 63 substituted

Section 63—

Repeal the section

Substitute

“63. **Police officer may demand certain information in respect of alleged offences or accidents**

- (1) This section applies if—
 - (a) the driver of a vehicle is suspected of having committed an offence under this Ordinance (*alleged offence*); or
 - (b) an accident occurs owing to the presence of a vehicle on a road.
- (2) A police officer may demand a person to provide—
 - (a) for an alleged offence—

- (i) if the person is the driver concerned—the personal particulars of the person; or
 - (ii) if the person is not the driver concerned—
 - (A) the personal particulars of the driver concerned; and
 - (B) the relationship (if any) of the person to the driver concerned; and
 - (b) for an accident—
 - (i) if the person is the driver concerned—the personal particulars of the person; or
 - (ii) if the person is not the driver concerned—
 - (A) the personal particulars of the driver concerned; and
 - (B) the relationship (if any) of the person to the driver concerned.
- (3) A demand under subsection (2)—
- (a) must be made within 6 months after the date of the alleged offence or accident; and
 - (b) may be made—
 - (i) orally; or
 - (ii) by notice in the specified form.
- (4) In this section—
- driver concerned*** (涉事司機) means—
- (a) for an alleged offence—the driver of the vehicle concerned at the time of the alleged offence; or
 - (b) for an accident—
 - (i) the driver of the vehicle concerned at the time of the accident; or

- (ii) the last driver of the vehicle concerned before the accident;

personal particulars (個人詳情), in relation to a person, means the name, address, e-contact means and driving licence number of the person.”.

53. Sections 63A to 63G added

After section 63—

Add

“63A. Supplementary provisions to section 63

- (1) A notice under section 63(3)(b)(ii) (*demand notice*) must be served by—
 - (a) delivering the notice personally to the person on whom the demand under section 63(2) is made; or
 - (b) post to—
 - (i) if the demand is made on the registered owner of the vehicle—the registered address of the owner; or
 - (ii) if the demand is made on the driver concerned or any other person—the driver’s or the person’s last known postal address.
- (2) Subsection (3) applies if the person on whom the demand under section 63(2) is made has a registered e-contact means.
- (3) A demand notice may otherwise be served by—

-
- (a) making the notice available for inspection by the person on whom the demand under section 63(2) is made by means of an information system designated by the Commissioner of Police; and
 - (b) as soon as reasonably practicable after making the notice available for inspection, sending an electronic message in the specified form containing the following information through the registered e-contact means of the person—
 - (i) the way in which the corresponding demand notice may be inspected;
 - (ii) the period for the provision of the information;
 - (iii) the consequence for failing to provide the information;
 - (iv) the method of enquiry;
 - (v) the date of the message.
- (4) In subsection (3)(b), the reference to sending an electronic message through a registered e-contact means is to be construed as—
- (a) if the registered e-contact means is an electronic mail address—sending the message to the electronic mail address by an electronic mail; or
 - (b) if the registered e-contact means is a telephone number—sending the message to the telephone number by an SMS message.
- (5) In this section—

registered e-contact means (經登記電子聯絡方式), in relation to a person, means the e-contact means of the person provided to the Commissioner in accordance with regulations made under this Ordinance.

63B. Obligation to provide information in respect of alleged offences or accidents

- (1) This section applies if a demand has been made by a police officer under section 63(2).
- (2) The person on whom the demand is made orally must—
 - (a) if the person is the driver concerned—immediately provide to the police officer the person’s personal particulars; or
 - (b) if the person is not the driver concerned—provide either orally or in writing the information specified in section 63(2)(a)(ii) or (b)(ii) (as appropriate) to the police officer who made the demand within 21 days after the date of the demand.
- (3) The person on whom a demand notice is served under section 63A(1) or (3) must, in compliance with subsection (4), provide to the police officer specified in the notice the information specified in section 63(2)(a) or (b) (as appropriate) within 21 days after the date of the demand notice or the date of the corresponding electronic message (if any), whichever is the later.
- (4) For the purposes of subsection (3), the information must be provided—
 - (a) in the form of a written statement that is—

-
- (i) in accordance with the form specified in the demand notice; and
 - (ii) signed by the person on whom the notice is served; or
 - (b) in the form of an electronic record that is—
 - (i) signed in accordance with section 63C by the person on whom the demand notice is served; and
 - (ii) sent in accordance with that section.
 - (5) A person who contravenes subsection (2) or (3) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.
 - (6) A person who knowingly makes a false statement in providing information under subsection (2) or (3) commits an offence and is liable on conviction to a fine at level 3 and to imprisonment for 6 months.
 - (7) In proceedings for an offence under subsection (5), it is a defence for the person charged with the offence to show that—
 - (a) if the person contravenes subsection (2) or (3)—that person—
 - (i) did not know; and
 - (ii) could not with reasonable diligence have ascertained,
the personal particulars of the driver concerned;
or
 - (b) if the person contravenes subsection (3)—the demand notice has not come to the personal notice of that person without any neglect by that person.

- (8) Subsection (9) applies if—
- (a) a person is convicted of an offence under subsection (5) or (6); and
 - (b) the offence of which the person is convicted is an offence in connection with providing to a police officer the personal particulars of the driver of a vehicle at the time of an alleged offence.
- (9) The court before whom the person under subsection (8) is convicted must 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 that person to be disqualified,
- for the offence under subsection (5) or (6).
- (10) In this section—
- alleged offence* (指控罪行)—see section 63(1)(a).

63C. Information provided in form of electronic record

- (1) If the person on whom a demand notice is served under section 63A(1)(b) or (3) (*specified person*) wishes to provide any information specified in section 63(2)(a) or (b) (as appropriate) in the form of an electronic record (*electronic record*), the person must—
- (a) sign the electronic record; and
 - (b) send the information to the information system designated by the Commissioner of Police (*information system*).

-
- (2) The electronic record is taken to have been received by the police officer specified in the demand notice if—
 - (a) the electronic record is sent in accordance with subsection (1)(b);
 - (b) the electronic record is accepted by the information system; and
 - (c) the information system generates a record confirming the acceptance.
 - (3) The requirement for a signature on the electronic record under subsection (1)(a) is met by—
 - (a) if the specified person is a natural person—
 - (i) a digital signature of the specified person; or
 - (ii) a password of that person assigned or approved under subsection (4); and
 - (b) if the specified person is a corporation—
 - (i) a digital signature of a person who is authorized by the specified person to send the electronic record for the specified person; and
 - (ii) a password of the specified person assigned or approved under subsection (4).
 - (4) The Commissioner of Police may, for enabling a person to send an electronic record under subsection (1)(b), assign or approve any sequence or combination of letters, characters, numbers or symbols as the person's password.

(5) A person whose digital signature has been affixed on the electronic record under subsection (3)(b)(i) is, in the absence of evidence to the contrary, to be regarded as a person who is authorized by the specified person to send the record for the specified person.

(6) In this section—

digital signature (數碼簽署) means a digital signature within the meaning of section 2 of the ETO that meets the requirements specified in section 63D.

63D. Requirements specified for digital signature under section 63C(6)

(1) The requirements specified for the definition of *digital signature* in section 63C(6) are that—

- (a) the digital signature is supported by a recognized certificate;
- (b) the digital signature is generated within the validity of the certificate; and
- (c) the digital signature is used in accordance with the terms of that certificate.

(2) In this section—

certification authority (核證機關) has the meaning given by section 2(1) of the ETO;

recognized certificate (認可證書) has the meaning given by section 2(1) of the ETO;

recognized certification authority (認可核證機關) has the meaning given by section 2(1) of the ETO;

within the validity of the certificate (在該證書的有效期內) means that at the time the digital signature is generated—

- (a) the certificate that supports the digital signature has not been revoked or suspended by the certification authority that issued the certificate;
- (b) the recognition of the certificate has not been revoked or suspended by the Government Chief Information Officer;
- (c) if it is a certificate designated as a recognized certificate issued by the recognized certification authority referred to in section 34 of the ETO—the designation has not been withdrawn by the certification authority;
- (d) if the Government Chief Information Officer has specified a period of validity for the recognition of the certificate—the certificate is within that period; and
- (e) if the recognized certification authority has specified a period of validity for the certificate—the certificate is within that period.

63E. Certificate of service

- (1) In proceedings for an offence under section 63B(5) or (6), a certificate of service in the specified form purporting to be signed by or for the Commissioner of Police is admissible in evidence without further proof on its production.
- (2) The certificate may state the following matters—
 - (a) the demand notice specified in the certificate has been served on the person on whom the demand under section 63(2) was made by post under section 63A(1)(b); or

- (b) the demand notice specified in the certificate has been made available for inspection by the person on whom the demand under section 63(2) was made under section 63A(3)(a) and the corresponding electronic message has been sent under section 63A(3)(b).
- (3) Unless the contrary is proved—
 - (a) it is presumed that the certificate is signed by or for the Commissioner of Police; and
 - (b) the certificate is evidence of the facts stated in it.

63F. Commissioner of Police may specify forms of certain documents

- (1) The Commissioner of Police may, by notice published in the Gazette, specify the forms of the following documents—
 - (a) a demand notice;
 - (b) an electronic message; and
 - (c) a certificate of service.
- (2) The Commissioner of Police may, in a form specified under subsection (1)(a), specify the form for the provision of information under section 63B(4)(a).
- (3) A demand notice in the form specified under subsection (1)(a) is valid if the name of the Commissioner of Police or a police officer authorized by the Commissioner of Police is printed, signed or otherwise shown on the notice.
- (4) A notice published in the Gazette under subsection (1) is not subsidiary legislation.
- (5) In this section—

certificate of service (送達證明書) means the certificate of service under section 63E(1).

63G. Designation of information system by Commissioner of Police

- (1) The Commissioner of Police may, by notice published in the Gazette, designate an information system for the purposes of section 63A(3)(a) or 63C(1)(b).
- (2) A notice published in the Gazette under subsection (1) is not subsidiary legislation.”.

54. Section 64 amended (proof in summary proceedings of identity of driver)

- (1) Section 64—
Renumber the section as section 64(1).
- (2) Section 64(1)—
Repeal
“statement which”
Substitute
“written statement that”.
- (3) Section 64(1)(b)—
Repeal
“furnished”
Substitute
“provided”.
- (4) Section 64(1)(b)—
Repeal
“him under section 63(2)”

Substitute

“the defendant under section 63A(1) or (3)”.

- (5) Section 64(1)(c), Chinese text—

Repeal

“該車輛”

Substitute

“有關車輛”.

- (6) Section 64(1)—

Repeal

“shall”

Substitute

“must, in the absence of evidence to the contrary,”.

- (7) Section 64(1)—

Repeal

“prima facie”.

- (8) After section 64(1)—

Add

- “(2) Subsection (3) applies if the defendant concerned has provided, in accordance with a notice served on the defendant under section 63A(1) or (3), a statement in the form of an electronic record (*electronic record*) that purports to have been signed and sent by the defendant under section 63C(1).
- (3) If, in any summary proceedings for an offence under this Ordinance, there is produced to the court a printed copy of an electronic record (*printed copy*) that falls within the description under subsection (5) stating that the defendant was the driver of the vehicle at the time of the offence, the court must, in

the absence of evidence to the contrary, admit the printed copy as evidence that the defendant was the driver of the vehicle at the time of the offence.

- (4) Subsections (5) and (6) apply in relation to a printed copy produced to the court under subsection (3).
- (5) A document purporting to be a printed copy is admissible in evidence without further proof on its production before the court if the document purports to be—
 - (a) a printed copy of an electronic record concerned produced from the information system under section 63C(1)(b); and
 - (b) certified as being such a copy by or for the Commissioner of Police.
- (6) If a document is produced under subsection (3) as a printed copy, the court before which the document is produced must, in the absence of evidence to the contrary, presume that the document—
 - (a) is a true copy of the electronic record concerned; and
 - (b) was certified by or for the Commissioner of Police under subsection (5)(b).”.

55. Section 64A added

After section 64—

Add

“64A. Presumption of identity of signatory of electronic record signed and sent under section 63C(1)

- (1) This section applies if—

- (a) a police officer has demanded a person (*subject person*) to provide any information under section 63(2); and
 - (b) the subject person provided the information in the form of an electronic record signed and sent under section 63C(1) (*electronic record*).
- (2) The person named in an electronic record as the person who signed the record is, in the absence of evidence to the contrary, to be regarded as the person who signed the record.”.

56. Section 68 amended (notice of intention to prosecute for certain offences)

Section 68(1)(d)—

Repeal

everything after “section 41,”

Substitute

“the person was served with a demand notice under section 3AAB(1) or (2) of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) and has failed to comply with the demand notice.”.

57. Section 69 amended (disqualification on conviction of certain offences)

Section 69(1)(b)—

Repeal

“section 63(6)”

Substitute

“section 63B(5) or (6)”.

58. Section 114 amended (minor and consequential amendments)

Section 114(2)—

Repeal

“Ordinance, there shall be”

Substitute

“Ordinance 1975 (59 of 1975), there is”.

59. Schedule 8 amended (requirements applicable to car testing centres)

Schedule 8, paragraph 6(a)—

Repeal

“designation or renewal of designation”

Substitute

“the designation, or the renewal of the designation,”.

60. Schedule 10 amended (requirements applicable to vehicle emission testing centres)

Schedule 10, paragraph 6(a)—

Repeal

“designation or renewal of designation”

Substitute

“the designation, or the renewal of the designation,”.

61. Schedule 12 amended (requirements applicable to driving improvement schools)

Schedule 12, section 3—

Repeal

“designation, or renewal of”

Substitute

“the designation, or the renewal of the”.

Part 7

Amendments to Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B)

62. **Regulation 18 amended (notification of change of particulars of licence holders)**
- (1) Regulation 18(1), after “address”—
Add
“, e-contact means”.
 - (2) Regulation 18(1), English text—
Repeal
“shall”
Substitute
“must”.
 - (3) Regulation 18(1)(a), English text—
Repeal
“such”
Substitute
“the”.
 - (4) Regulation 18(1)(b)—
Repeal
“Commissioner his”
Substitute
“Commissioner the licence holder’s”.
 - (5) Regulation 18(1)(b)—
Repeal

“he”

Substitute

“the licence holder”.

- (6) Regulation 18(1)(b)—

Repeal

“licence, his”

Substitute

“licence, that licence holder’s”.

63. Regulation 44B amended (power of Commissioner to require proof of address)

- (1) Regulation 44B, heading, after “**address**”—

Add

“**and e-contact means**”.

- (2) Regulation 44B, English text—

Repeal

“Notwithstanding”

Substitute

“Despite”.

- (3) Regulation 44B(a)—

Repeal

“his address”

Substitute

“the applicant’s address and e-contact means”.

- (4) Regulation 44B(b), English text—

Repeal

“such”

Substitute

“the”.

Part 8

Amendments to Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E)

64. Regulation 2 amended (interpretation)

Regulation 2(1)—

Repeal the definition of *e-contact means*.

65. Schedule 2 amended (fees)

(1) Schedule 2, after heading “Fees”—

Add

“Miscellaneous Fees”.

(2) Schedule 2, under heading “Miscellaneous Fees”—

Repeal

“Certificate”

Substitute

“1. Certificate”.

(3) Schedule 2, under heading “Miscellaneous Fees”—

Repeal

“Registration”

Substitute

“2. Registration”.

(4) Schedule 2, under heading “Miscellaneous Fees”—

Repeal

“Transfer of registration”

Substitute

“3. Transfer of registration”.

- (5) Schedule 2, under heading “Miscellaneous Fees”—

Repeal

“Transfer of ownership”

Substitute

“4. Transfer of ownership”.

- (6) Schedule 2, under heading “Miscellaneous Fees”—

Repeal

“Duplicate registration”

Substitute

“5. Duplicate registration”.

- (7) Schedule 2, under heading “Miscellaneous Fees”—

Repeal

“Duplicate vehicle”

Substitute

“6. Duplicate vehicle”.

- (8) Schedule 2, under heading “Miscellaneous Fees”—

Repeal

“Duplicate trade”

Substitute

“7. Duplicate trade”.

Part 9

Related Amendments

Division 1—Amendments to Road Traffic (Driving-offence Points) Ordinance (Cap. 375)

66. Section 2 amended (interpretation)

(1) Section 2(2)—

Repeal paragraph (a)

Substitute

“(a) the person pays the fixed penalty in accordance with—

(i) a fixed penalty notice served on the person under section 3(3) or (4) of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240);
or

(ii) a demand notice served on the person under section 3AAB(1) or (2) of that Ordinance;”.

(2) Section 2(2)(c)—

Repeal

everything before “of that Ordinance but”

Substitute

“(c) the person has notified the Commissioner of Police that the person wishes to dispute liability in accordance with a demand notice served under section 3AAB(1) or (2)”.

67. Section 4A amended (cessation of liability to fixed penalty in certain cases)

Section 4A(1)(a)—

Repeal

everything before “of the”

Substitute

“(a) the fixed penalty notice or demand notice issued against the person under section 3(2) or 3AA(2) (as the case may be)”.

Division 2—Amendments to Airport Authority Bylaw (Cap. 483 sub. leg. A)

68. Schedule 2 amended (modification of Road Traffic Ordinance)

(1) Schedule 2, Part I, section 5, after “63”—

Add

“, 63B, 63E, 63F”.

(2) Schedule 2, Part I, section 5(a)—

Repeal

“sections 56(2), 63(4) and (7) and 67(1) and (2)”

Substitute

“section 56(2)”.

(3) Schedule 2, English text, Part I, section 5(a)—

Repeal

“there shall be added”

Substitute

“add”.

(4) Schedule 2, Part I, section 5—

Repeal paragraph (b)

Substitute

- “(b) for the heading of section 63, after the words “**Police officer**”, add “**or Authorized Person**”;
 - (c) for sections 63(2) and 63B(1) and (8)(b), after the words “police officer”, add “or an Authorized Person”;
 - (d) for section 63B(2)(a) and (b) and (3), after the words “police officer”, add “or the Authorized Person”;
 - (e) for section 63E(1) and (3)(a), after the words “Commissioner of Police”, add “or the Authority”;
 - (f) for the heading of section 63F, after the words “**Commissioner of Police**”, add “**or Authority**”;
 - (g) for section 63F(1) and (2), after the words “Commissioner of Police”, add “or the Authority”;
 - (h) for section 63F(3), for the words “or a police officer authorized by the Commissioner of Police”, substitute “, a police officer authorized by the Commissioner of Police, or an Authorized Person”;
 - (i) for section 67(1) and (2), after the words “police officer”, add “or an Authorized Person”.”.
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Explanatory Memorandum

The main object of this Bill is to provide for the electronic enforcement of certain contraventions and traffic offences without changing the levels of relevant penalties.

2. The Bill amends the Fixed Penalty (Traffic Contraventions) Ordinance (Cap. 237) (*Cap. 237*), the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) (*Cap. 240*), the Road Traffic Ordinance (Cap. 374) (*Cap. 374*) and their subsidiary legislation to—
 - (a) enable the electronic service of notices relating to fixed penalties for certain traffic offences or the demand for information relating to traffic offences or accidents;
 - (b) empower the Commissioner of Police (*CP*) to specify the forms of notices relating to fixed penalties and matters relating to the payment of the penalties;
 - (c) prescribe the information that must be contained in the forms relating to fixed penalties;
 - (d) require the applicants for driving licences or permits to produce proof of their e-contact means;
 - (e) provide that the holders of driving licences or permits must notify the Commissioner for Transport (*CT*) if change occurs to their e-contact means;
 - (f) adapt Cap. 237 and Cap. 240 to bring them into conformity with the Basic Law and with Hong Kong's status as a Special Administrative Region of the People's Republic of China;
 - (g) provide for transitional and related matters;

- (h) make related amendments to the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) (**Cap. 375**) and the Airport Authority Bylaw (Cap. 483 sub. leg. A) (**Cap. 483A**); and
- (i) make miscellaneous amendments.

3. The Bill contains 9 Parts.

Part 1—Preliminary

4. Clause 1 sets out the short title and provides for commencement.

Part 2—Amendments to Cap. 237

- 5. Clause 3 amends section 2 of Cap. 237 by adding new definitions, in particular, the definitions of ***demand notice***, ***fixed penalty notice***, ***official vehicle*** and ***registered e-contact means***.
- 6. Clause 4 replaces the existing section 3 of Cap. 237 with a new section 3 to adapt the references to the Crown.
- 7. Clause 5 adds a new section 3AA to Cap. 237 to re-enact the existing section 3(2) of Cap. 237 that provides that the driver of an official vehicle is liable for the fixed penalty if a contravention is committed in respect of the vehicle.
- 8. Clauses 6, 14(4) and 16(3) amend respectively the Chinese text of sections 13, 20B(3) and 22(6) of Cap. 237 to adapt the reference to 立法局.
- 9. Clause 7 adds a new section 14A to Cap. 237 to define certain terms used in section 15 and the new sections 15AA, 15AAB,

15AAD, 15AAE and 15AAF of Cap. 237, including *electronic record, person liable, police officer* and *prescribed information*.

10. Clause 8 replaces the existing section 15 of Cap. 237 with a new section 15 that re-enacts the existing section 15(1) and (2) of Cap. 237 that provides for the issue and service of a fixed penalty notice, and in particular, to provide for the electronic service of the fixed penalty notice.
11. Clause 9 adds new sections 15AA to 15AAF to Cap. 237 to provide for the following matters—
 - (a) the new section 15AA of Cap. 237 re-enacts the existing section 15(3) and (5) of Cap. 237 that provides for the issue of a demand notice, and in particular, to provide that if a contravention is committed in respect of an official vehicle, a demand notice may be issued to the driver of the vehicle without a fixed penalty notice having been issued first;
 - (b) the new section 15AAB of Cap. 237 re-enacts the existing section 15(4) of Cap. 237 that provides for the service of a demand notice, and in particular, to provide for the electronic service of the demand notice;
 - (c) the new section 15AAD of Cap. 237 provides for the electronic means of notifying the CP if a person wishes to dispute liability for the contravention;
 - (d) the new section 15AAF of Cap. 237 re-enacts the existing section 15(6) of Cap. 237 that provides for matters concerning the certificate of postal service of the demand notice, and in particular, to provide for matters concerning the certificate of electronic service of the demand notice.

12. Clause 13(3) amends section 19 of Cap. 237 to provide that if a demand notice is served electronically, the certificate of service that is required to be produced to the magistrate under that section must be accompanied by the printed copies of the demand notice and the corresponding electronic demand notice.
13. Clause 15(3) amends section 21(1) of Cap. 237 to provide that the e-contact means of the person liable specified in the certificate under that section is presumed to be the registered e-contact means of the person.
14. Clause 17 amends section 25 of Cap. 237 to provide that the Secretary for Transport and Logistics (*STL*) may by regulation empower the CP to specify in a form specified by the CP matters relating to the payment of penalties.
15. Clause 18 adds new sections 26 to 28 to Cap. 237 to provide for the following matters—
 - (a) the new section 26 of Cap. 237 empowers the CP to specify the forms of the fixed penalty notice, demand notice, electronic fixed penalty notice and electronic demand notice;
 - (b) the new section 27 of Cap. 237 empowers the CP to designate an information system for the purposes of the electronic service of the fixed penalty notice and demand notice, as well as for the dispute of liability by electronic means;
 - (c) the new section 28 of Cap. 237 provides for the transitional provisions in relation to a notice in Form 1 or 2 in the Schedule to the Fixed Penalty (Traffic Contraventions) Regulations (Cap. 237 sub. leg. A)

(*Cap. 237A*) issued before the date on which Parts 2 and 3 come into operation.

Part 3—Amendments to Cap. 237A

16. Clause 22 amends regulation 3 of Cap. 237A to provide for the following matters—
 - (a) a person may pay the fixed penalty by means of a method specified by the CP;
 - (b) if the fixed penalty notice or demand notice is served electronically, a person who wishes to pay the fixed penalty must, when paying the penalty, deliver the printed copy of the fixed penalty notice or demand notice, or provide the notice number or electronic payment number.
17. Clause 25 amends the Schedule to Cap. 237A by—
 - (a) renumbering it as Schedule 1 to Cap. 237A;
 - (b) repealing the existing prescribed forms of Forms 1 and 2; and
 - (c) adding the prescribed form of the certificate of electronic service of the demand notice.
18. Clause 26 adds a new Schedule 2 to Cap. 237A to set out the prescribed information required to be contained in the forms of the fixed penalty notice, electronic fixed penalty notice, demand notice and electronic demand notice to be specified by the CP.

Part 4—Amendments to Cap. 240

19. Clause 27 amends section 2 of Cap. 240—

- (a) to adapt the reference to 皇家香港輔助警察隊; and
 - (b) by adding new definitions, in particular, the definitions of *demand notice*, *fixed penalty notice* and *registered e-contact means*.
- 20. Clause 28 replaces the existing section 3 of Cap. 240 with a new section 3 that re-enacts the existing section 3(1) and (2) of Cap. 240 that provides for the issue and service of a fixed penalty notice, and in particular, to provide for the electronic service of a fixed penalty notice.
- 21. Clause 29 adds new sections 3AA to 3AAF to Cap. 240 to provide for the following matters—
 - (a) the new section 3AA of Cap. 240 re-enacts the existing section 3(3), (4) and (6) of Cap. 240 that provides for the issue of a demand notice;
 - (b) the new section 3AAB of Cap. 240 re-enacts the existing section 3(5) of Cap. 240 that provides for the service of a demand notice, and in particular, to provide for the electronic service of the demand notice;
 - (c) the new section 3AAC of Cap. 240 re-enacts the existing section 3(8) of Cap. 240 that provides that a person would not be prosecuted for the offence specified in the fixed penalty notice or demand notice if the fixed penalty has been paid;
 - (d) the new section 3AAD of Cap. 240 provides for the electronic means of notifying the CP if the person liable wishes to dispute liability for the offence;
 - (e) the new section 3AAF of Cap. 240 provides for matters concerning the certificate of postal or electronic service of the demand notice.

22. Clause 34(3) amends section 7(1) of Cap. 240 to provide that if a demand notice is served electronically, the certificate of service that is required to be produced to the magistrate under that section must be accompanied by the printed copies of the demand notice and the corresponding electronic demand notice.
23. Clause 35 replaces the existing section 8 of Cap. 240 with a new section 8 to provide that the e-contact means of the person specified in the certificate of service is presumed to be the registered e-contact means of the person.
24. Clauses 36 and 41 amend respectively the Chinese text of sections 9(3) and 12 of Cap. 240 to adapt the reference to 立法局.
25. Clause 39 amends section 11 of Cap. 240 to provide that the STL may by regulation empower the CP to specify in a form specified by the CP matters relating to the payment of penalties.
26. Clause 40 adds new sections 11A to 11C to Cap. 240 to provide for the following matters—
 - (a) the new section 11A of Cap. 240 empowers the CP to specify the forms of the fixed penalty notice, demand notice, electronic fixed penalty notice and electronic demand notice;
 - (b) the new section 11B of Cap. 240 empowers the CP to designate an information system for the purposes of the electronic service of fixed penalty notice and demand notice, as well as for the dispute of liability by electronic means;

- (c) the new section 11C of Cap. 240 provides for the transitional provisions in relation to a notice in Form 1 or 2 in the Schedule to the Fixed Penalty (Criminal Proceedings) Regulations (Cap. 240 sub. leg. A) (*Cap. 240A*) issued before the date on which Parts 4 and 5 come into operation.

Part 5—Amendments to Cap. 240A

- 27. Clause 44 amends regulation 3 of Cap. 240A to provide for the following matters—
 - (a) a person may pay the fixed penalty by means of a method specified by the CP;
 - (b) if the fixed penalty notice or demand notice is served electronically, a person who wishes to pay the fixed penalty must, when paying the penalty, deliver the printed copy of the fixed penalty notice or demand notice, or provide the notice number or electronic payment number.
- 28. Clause 48 amends the Schedule to Cap. 240A by—
 - (a) renumbering it as Schedule 1 to Cap. 240A;
 - (b) repealing the existing prescribed forms of Forms 1 and 2; and
 - (c) adding the prescribed forms of the certificates of postal service and electronic service of the demand notice.
- 29. Clause 49 adds a new Schedule 2 to Cap. 240A to set out the prescribed information required to be contained in the forms of the fixed penalty notice, electronic fixed penalty notice, demand notice and electronic demand notice to be specified by the CP.

Part 6—Amendments to Cap. 374

30. Clause 50 amends section 2 of Cap. 374 by adding new definitions, in particular, the definition of *e-contact means* that is relocated from regulation 2(1) of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374 sub. leg. E) (*Cap. 374E*). The definition of *e-contact means* is revised by adding the following requirements—
 - (a) the e-contact means must be one through which the person concerned can be contacted by an electronic mail or SMS message; and
 - (b) if the e-contact means is a telephone number, it must be a local telephone number.
31. Clause 51 adds a new section 62A to Cap. 374 to define certain terms used in new sections 63A to 63G of Cap. 374, including *demand notice*, *driver concerned*, *electronic message* and *personal particulars*.
32. Clause 52 replaces the existing section 63 of Cap. 374 with a new section 63 that re-enacts the existing section 63(1) and (3) of Cap. 374 to provide for the power of a police officer to demand orally or in writing any person to provide the personal particulars of the driver concerned in respect of any traffic offence or accident, or the relationship of the person to the driver concerned.
33. Clause 53 adds new sections 63A to 63G to Cap. 374 to provide for the following matters—
 - (a) the new section 63A of Cap. 374 re-enacts the existing section 63(2) of Cap. 374 that provides for the service of a demand notice, and in particular, to provide for the electronic service of the demand

notice on a person who has a registered e-contact means;

- (b) the new section 63B of Cap. 374 re-enacts the existing section 63(4), (5), (6) and (7) of Cap. 374 and obliges the person on whom a demand is made by a police officer to provide the information demanded, and, in particular, the new section 63B(7)(b) of Cap. 374 provides that it is a defence for a person who contravenes the new section 63B(3) of Cap. 374 to show that the demand notice has not come to the personal notice of that person without any neglect by that person;
- (c) the new section 63C of Cap. 374 provides for matters relating to the provision of information in the form of an electronic record;
- (d) the new section 63E of Cap. 374 provides for matters concerning the certificate of postal service or electronic service of the demand notice;
- (e) the new section 63F of Cap. 374 empowers the CP to specify the forms of the demand notice, electronic message and certificate of service;
- (f) the new section 63G of Cap. 374 empowers the CP to designate an information system for the purposes of the electronic service of the demand notice, as well as for the provision of information by electronic means.

**Part 7—Amendments to Road Traffic (Driving Licences) Regulations
(Cap. 374 sub. leg. B) (Cap. 374B)**

34. Clause 62(1) amends regulation 18(1) of Cap. 374B by adding the e-contact means as one of the particulars provided by the licence holders in respect of which the CT is required to be notified if any change occurs to it.
35. Clause 63 amends regulation 44B(a) of Cap. 374B by adding the e-contact means as one of the particulars provided by the applicants for licences in respect of which the CT may require production of proof.

Part 8—Amendments to Cap. 374E

36. Clause 64 amends regulation 2(1) of Cap. 374E by repealing the definition of *e-contact means*, which is relocated to section 2 of Cap. 374 in clause 50.

Part 9—Related Amendments

37. Part 9 provides for the related amendments made to Cap. 375 and Cap. 483A.