
STATUTORY INSTRUMENTS

1992 No. 2043 (C.74)

TRANSPORT

**The Transport and Works Act 1992
(Commencement No. 2) Order 1992**

Made - - - - 27th August 1992

The Secretary of State for Transport, in exercise of the powers conferred on him by section 70(1) of the Transport and Works Act 1992⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Transport and Works Act 1992 (Commencement No. 2) Order 1992.

(2) In this Order “the Act” means the Transport and Works Act 1992.

Provisions coming into force

2. The following provisions of the Act shall come into force on 7th December 1992—
- (a) Chapter I of Part II (offences involving drink or drugs on railways, tramways and certain other guided transport systems);
 - (b) section 68(1) (repeals: railways) in so far as it relates to the provisions of Schedule 4 referred to in paragraph (c) below; and
 - (c) Part I of Schedule 4 (repeals: railways) with respect to the entry therein relating to the Railway Regulation Act 1842⁽²⁾.

(1) 1992 c. 42.
(2) 5 & 6 Vict. c.55.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Transport

27th August 1992

Roger Freeman
Minister of State,
Department of Transport

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force Chapter I of Part II of the Transport and Works Act 1992.

This Chapter makes it a criminal offence to perform certain functions on specified transport systems when unfit through drink or drugs, or to perform such functions after consuming alcohol in excess of limits which are prescribed in the Chapter.

The transport systems concerned are railways, tramways and those using modes of guided transport which have been specified for the purpose by order made by the Secretary of State.

The Transport (Guided Systems) Order 1992 (S.I.1992/2044) has been made in pursuance of this provision.

The functions referred to above are those performed by—

- (a) drivers, guards, conductors, signalmen and others who control or affect the movement of vehicles operating on a transport system described above;
- (b) persons who couple or uncouple such vehicles or check that they are working properly;
- (c) persons maintaining the permanent way (or other support or guidance structures), signalling systems and power supply used by such vehicles; and
- (d) supervisor of, or look-outs for, persons engaged in the functions mentioned in categories (b) and (c) above.

It is immaterial whether these functions are carried out in the course of employment, under a contract for services, voluntarily or otherwise.

If an offence is committed by a person in any of the categories mentioned above, then unless he has exercised proper diligence the operator of the transport system is also guilty of the offence.

If there is more than one operator, it is the one responsible for the function giving rise to the offence who is liable.

If the person committing the original offence is not employed by the operator, then his employer may additionally be liable.

Furthermore in the event of such operator or employer being a company or other corporate body, the directors, managers and similar officers of the company or other body are also guilty of the offence if it has been committed as a result of their consent, connivance or neglect.

All these offences attract the same penalty: imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.

The consent of the Secretary of State or of the Director of Public Prosecutions is needed before proceedings for an offence may be instituted in England and Wales.

Other provisions introduce measures to enforce and supplement these requirements.

These include obligations to provide specimens of breath, blood or urine when required to do so by a constable, the equipment and procedures for so doing, the use of such specimens in evidence, powers of arrest and entry, and the protection of hospital patients.

The alcohol limits prescribed are the same as those for road traffic.

There is power to alter the limits by regulation, subject to Parliamentary approval.

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Provision is also made for the insertion of a new section in the Road Traffic Act 1988 (c. 52) so as to remove tramcars and (unless regulations provide to the contrary) other guided vehicles from the scope of sections 4 to 11 of that Act (drink and drugs) consequent on the bringing into force of Chapter I by this Order.

There is also a consequential repeal of a corresponding provision in section 17 of the Railway Regulation Act 1842.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by a Commencement Order made on 8th June 1992:

Provisions	Date of Commencement	S.I. No.
Sections 45, 46, 49, 57 to 60, 63, 65(1)(a) and (e) and (2), 66, 67, 68(1) (partially) and 69; Schedule 3 and Schedule 4, Part I (partially) and Part II.	15th July 1992	1992/1347