
STATUTORY INSTRUMENTS

2007 No. 916

The Road Traffic (Northern Ireland) Order 2007

PART II

OFFENCES AND ENFORCEMENT

Testing for drink and drugs

Testing for drink and drugs

14. For Article 17 of the Order of 1995 (breath tests) substitute—

“Power to administer preliminary tests

17.—(1) If any of paragraphs (2) to (5) applies a constable may require a person to co-operate with any one or more preliminary tests administered to the person by that constable or another constable.

- (2) This paragraph applies if a constable reasonably suspects that the person—
 - (a) is driving, is attempting to drive or is in charge of a motor vehicle on a road or other public place, and
 - (b) has alcohol or a drug in his body or is under the influence of a drug.
- (3) This paragraph applies if a constable reasonably suspects that the person—
 - (a) has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place while having alcohol or a drug in his body or while unfit to drive because of a drug, and
 - (b) still has alcohol or a drug in his body or is still under the influence of a drug.
- (4) This paragraph applies if a constable reasonably suspects that the person—
 - (a) is or has been driving, attempting to drive or in charge of a motor vehicle on a road or other public place, and
 - (b) has committed a traffic offence while the vehicle was in motion.
- (5) This paragraph applies if—
 - (a) an accident occurs owing to the presence of a motor vehicle on a road or other public place, and
 - (b) a constable reasonably believes that the person was driving, attempting to drive or in charge of the vehicle at the time of the accident.
- (6) A person commits an offence if without reasonable excuse he fails to co-operate with a preliminary test in pursuance of a requirement imposed under this Article.
- (7) A constable may administer a preliminary test by virtue of any of paragraphs (2) to (4) only if he is in uniform.

- (8) In this Article—
- (a) a reference to a preliminary test is to any of the tests described in Articles 17A to 17C, and
 - (b) “traffic offence” means an offence under—
 - (i) any provision of the Order of 1981 other than an offence under Article 132, 133, 136 or 137 of that Order, or
 - (ii) any provision of this Order, or
 - (iii) any provision of the Offenders Order except Part IV, or
 - (iv) any provision of the Road Traffic Regulation (Northern Ireland) Order 1997 (NI 2).

Preliminary breath test

17A.—(1) A preliminary breath test is a procedure whereby the person to whom the test is administered provides a specimen of breath to be used for the purpose of obtaining, by means of a device of a type approved by the Department, an indication whether the proportion of alcohol in the person's breath or blood is likely to exceed the prescribed limit.

(2) A preliminary breath test administered in reliance on Article 17(2) to (4) may be administered only at or near the place where the requirement to co-operate with the test is imposed.

(3) A preliminary breath test administered in reliance on Article 17(5) may be administered—

- (a) at or near the place where the requirement to co-operate with the test is imposed, or
- (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.

(4) For the purposes of paragraph (1) a device shall be treated as of a type approved by the Department where a statement that the Department has approved a device of that type is included in the Belfast Gazette.

Preliminary impairment test

17B.—(1) A preliminary impairment test is a procedure whereby the constable administering the test—

- (a) observes the person to whom the test is administered in his performance of tasks specified by the constable, and
- (b) makes such other observations of the person's physical state as the constable thinks expedient.

(2) The Secretary of State shall issue (and may from time to time revise) a code of practice about—

- (a) the kind of task that may be specified for the purpose of a preliminary impairment test,
- (b) the kind of observation of physical state that may be made in the course of a preliminary impairment test,
- (c) the manner in which a preliminary impairment test should be administered, and
- (d) the inferences that may be drawn from observations made in the course of a preliminary impairment test.

- (3) In issuing or revising the code of practice the Secretary of State shall aim to ensure that a preliminary impairment test is designed to indicate—
- (a) whether a person is unfit to drive, and
 - (b) if he is, whether or not his unfitness is likely to be due to drink or drugs.
- (4) A preliminary impairment test may be administered—
- (a) at or near the place where the requirement to co-operate with the test is imposed, or
 - (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.
- (5) A constable administering a preliminary impairment test shall have regard to the code of practice under this Article.
- (6) A constable may administer a preliminary impairment test only if he is approved for that purpose by the Chief Constable.
- (7) A code of practice under this Article may include provision about—
- (a) the giving of approval under paragraph (6), and
 - (b) in particular, the kind of training that a constable should have undergone, or the kind of qualification that a constable should possess, before being approved under that paragraph.

Preliminary drug test

- 17C.**—(1) A preliminary drug test is a procedure by which a specimen of sweat or saliva is—
- (a) obtained, and
 - (b) used for the purpose of obtaining, by means of a device of a type approved by the Department, an indication whether the person to whom the test is administered has a drug in his body.
- (2) A preliminary drug test may be administered—
- (a) at or near the place where the requirement to co-operate with the test is imposed, or
 - (b) if the constable who imposes the requirement thinks it expedient, at a police station specified by him.
- (3) For the purposes of paragraph (1)(b) a device shall be treated as of a type approved by the Department where a statement that the Department has approved a device of that type is included in the Belfast Gazette.

Arrest

- 17D.**—(1) A constable may arrest a person without warrant if as a result of a preliminary breath test the constable reasonably suspects that the proportion of alcohol in the person's breath or blood exceeds the prescribed limit.
- (2) A constable may arrest a person without warrant if—
- (a) the person fails to co-operate with a preliminary test in pursuance of a requirement imposed under Article 17, and
 - (b) the constable reasonably suspects that the person has alcohol or a drug in his body or is under the influence of a drug.

- (3) A person may not be arrested under this Article while at a hospital as a patient.

Power of entry

17E. A constable may enter any place (using reasonable force if necessary) for the purpose of—

- (a) imposing a requirement by virtue of Article 17(5) following an accident in a case where the constable reasonably suspects that the accident involved injury of any person, or
- (b) arresting a person under Article 17D following an accident in a case where the constable reasonably suspects that the accident involved injury of any person.”.

Changes to legislation:

The Road Traffic (Northern Ireland) Order 2007, Section 14 is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 4(d)-(g) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 5](#)
- Sch. 4 para. 7(a)(b) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 5](#)
- Sch. 4 para. 13(b)(c)(d) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 5](#)
- Sch. 4 para. 21(a)-(c) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 5](#)