

## **POLICY NOTE**

### **THE ROAD TRAFFIC ACT 1988 (PRESCRIBED LIMIT) (SCOTLAND) REGULATIONS 2014**

**SSI 2014/328**

#### **Introduction**

1. The above instrument was made in exercise of the powers conferred by sections 8(3) and 11(2) of the Road Traffic Act 1988 as amended by section 20 of the Scotland Act 2012. The instrument is subject to affirmative procedure.

#### **Policy Objectives**

2. These regulations provide for the “drink drive” limit to be lowered from 80 milligrams (mg) of alcohol in 100 millilitres (ml) of blood to 50mg of alcohol in 100ml of blood, and for equivalent changes to be made to the limits for the concentration of alcohol in breath and urine.

3. The regulations amend the “prescribed limit” set out in section 11(2) of the Road Traffic Act 1988 which sets out the limits on the proportion of alcohol present in the breath, blood and urine. The new limits are 50mg/100ml of blood, 22 micrograms/100ml of breath and 67 mg/100ml of urine. The regulations also make a consequential amendment to section 8(2) of the Road Traffic Act 1988 to reduce the limit below which a person can elect to have a specimen of breath replaced with a specimen of blood or urine (the so-called “statutory option”) which is currently available to drivers whose breath/alcohol level is found to be over the prescribed limit, but less than 50mcg/100ml of breath. The order provides that the “statutory option” will be available to drivers whose breath/alcohol level is less than 31mcg/100ml.

4. The Scottish Government believes that this will help to make Scotland’s roads safer. On average, just over one in eight deaths on Scotland’s roads in recent years involve drivers over the legal limit. That is an average of 30 deaths each year.

5. Estimates of how many lives can be saved with a lower limit vary, but there is evidence that indicates between three and 17 lives each year could be saved on Scottish roads from a lower limit of 50mg/100ml.

#### **Background**

6. The Scotland Act 2012 provides the Scottish Ministers with a power to amend the “prescribed limit” for the concentration of alcohol in a driver’s blood, breath or urine for the purpose of driving, attempting to drive or being in charge of a vehicle in Scotland. In short, this means that the Scottish Ministers have a power to change the “drink drive” limit.

7. In 2012, the Scottish Government undertook a public consultation<sup>1</sup> on a proposal to lower the drink-drive limit from 80mg/100ml of blood to 50mg/100ml of blood, which would

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<sup>1</sup> <http://www.scotland.gov.uk/Publications/2012/09/3556>

bring Scotland into line with most of Europe. The responses to the consultation were analysed and showed that almost three quarters (74 per cent) of respondents to believe that drink drive limits should be reduced.

8. In 2009, the then UK Government commissioned an independent review of drink and drug driving law. For this purpose, the North Review Committee, led by Sir Peter North CBE QC, was established and they published their recommendations in the summer of 2010<sup>2</sup>. The North Report of the Review of Drink and Drug Driving Law indicated that a lower drink limit of 50mg of alcohol in 100ml of blood would help save lives.

9. Paragraph 4.12 of the North Report noted that evidence showed drivers are six times more likely to die with a blood alcohol concentration level between 50 and 80mg/100ml than with zero blood alcohol. Evidence submitted in 2010 by the British Medical Association to the House of Commons Transport Committee's inquiry into drink and drug driving law indicated that the relative risk of being involved in a road traffic crash for drivers with a reading of 80mg of alcohol per 100ml of blood was 10 times higher than for drivers with a zero blood alcohol reading<sup>3</sup>. The relative crash risk for drivers with a reading of 50mg of alcohol per 100ml blood was twice the level than for drivers with a zero blood alcohol reading.

10. Paragraph 4.17 of the North Report went on to state:

*“The estimates of the potential for a lower limit of 50 mg/100 ml to save lives vary. On the one hand, Professor Richard Allsop estimates, with conservative assumptions, that 43 lives could be saved in Great Britain annually, NICE on the other hand makes more ambitious estimates, based on the experience of research conducted in Europe and in Australia. NICE applies their model to all road traffic casualties in England and Wales rather than just those reported as drink drive-related. Based on the Albalate study of European countries, although without a defined time horizon, 77 – 168 lives could be saved each year in England and Wales whereas, based on the Australian experience, 144 lives could be saved after the first year in England and Wales, progressively increasing by the 6th year to a total of up to 303 deaths avoided.*

*These estimates for England and Wales take no account of the possible casualty savings for Scotland. It should be noted that Scotland represented 7% of all drink drive-related casualties in Great Britain in 2008”*

11. As can be seen, a range of studies are mentioned in the North Report and an analysis applied to England and Wales figures. Apportioning these figures to Scotland would suggest a range of between 3 and 17 fewer deaths per year would result following the introduction of a lower drink drive limit.

## **Consultation**

12. A Scottish Government consultation was undertaken to hear views on a proposal for a lower limit. In addition to wanting to receive feedback on the proposals, the need for the

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<http://webarchive.nationalarchives.gov.uk/20100921035225/http://northreview.independent.gov.uk/docs/NorthReview-Report.pdf>

<sup>3</sup> <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmtran/460/460we12.htm>

Scottish Government to consult is a requirement under section 195(2A) of the Road Traffic Act 1988 before a legislative change to change the drink drive limit can be introduced. The Scottish Government undertook the public consultation on proposals to lower the drink-drive limit between September 2012 and 29 November 2012. The consultation analysis revealed that 74% of those who responded to the consultation agreed that the drink drive limit should be reduced, and of those, 87% agreed with the Scottish Government's proposal to lower the blood alcohol limit from 80mg/100ml to 50mg/100ml.

13. The consultation responses suggested the likely benefits of a lower limit would be fewer road accidents and fewer casualties. A number of respondents also called for the Scottish Government to be given further powers by the UK Government to tackle drink driving including, for example, powers enabling the police to undertake random breath testing, and lower drink-drive limits for young and newly qualified drivers, or professional drivers such as HGV, bus or taxi drivers.

14. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website at <http://www.scotland.gov.uk/Publications/2013/03/6912>.

### **Impact Assessments**

15. Equality Impact Assessment (EQIA) is a tool to assist in considering how policy (by policy we mean activities, functions, strategies, programmes and services or processes) may impact, either positively or negatively, on different sectors of the population in different ways.

16. We have considered the impact of policy on particular groups of people (whatever their age, race, gender, sexual orientation, religion or belief or whether disabled or not). We are not aware of any evidence that any of the equality strands will be affected by the lowering of the drink-drive limit.

### **Financial Effects**

17. A Financial Note has been completed, setting out the financial implications of lowering the drink-drive limit for the Scottish Administration and for other bodies, individuals and businesses.

Scottish Government  
Justice Directorate