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Road Traffic Act 1988

1988 CHAPTER 52

PART I **U.K.**

PRINCIPAL ROAD SAFETY PROVISIONS

Motor vehicles: drink and drugs

4 Driving, or being in charge, when under influence of drink or drugs. **E+W+S**

- (1) A person who, when driving or attempting to drive a [^{F1}mechanically propelled vehicle] on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.
- (2) Without prejudice to subsection (1) above, a person who, when in charge of a [^{F1}mechanically propelled vehicle] which is on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.
- (3) For the purposes of subsection (2) above, a person shall be deemed not to have been in charge of a [^{F1}mechanically propelled vehicle] if he proves that at the material time the circumstances were such that there was no likelihood of his driving it so long as he remained unfit to drive through drink or drugs.
- (4) The court may, in determining whether there was such a likelihood as is mentioned in subsection (3) above, disregard any injury to him and any damage to the vehicle.
- (5) For the purposes of this section, a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.
- (6) A constable may arrest a person without warrant if he has reasonable cause to suspect that that person is or has been committing an offence under this section.
- (7) For the purpose of arresting a person under the power conferred by subsection (6) above, a constable may enter (if need be by force) any place where that person is or where the constable, with reasonable cause, suspects him to be.

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- (8) Subsection (7) above does not extend to Scotland, and nothing in that subsection affects any rule of law in Scotland concerning the right of a constable to enter any premises for any purpose.

Textual Amendments

- F1** Words in s. 4(1)(2)(3) substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 4; S.I. 1992/1286, art. 2, [Sch.](#)

5 **Driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit.** **U.K.**

- (1) If a person—
- (a) drives or attempts to drive a motor vehicle on a road or other public place, or
 - (b) is in charge of a motor vehicle on a road or other public place,
- after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit he is guilty of an offence.
- (2) It is a defence for a person charged with an offence under subsection (1)(b) above to prove that at the time he is alleged to have committed the offence the circumstances were such that there was no likelihood of his driving the vehicle whilst the proportion of alcohol in his breath, blood or urine remained likely to exceed the prescribed limit.
- (3) The court may, in determining whether there was such a likelihood as is mentioned in subsection (2) above, disregard any injury to him and any damage to the vehicle.

6 **Breath tests.** **E+W+N.I.**

- (1) Where a constable in uniform has reasonable cause to suspect—
- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his body or has committed a traffic offence whilst the vehicle was in motion, or
 - (b) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place with alcohol in his body and that that person still has alcohol in his body, or
 - (c) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place and has committed a traffic offence whilst the vehicle was in motion,
- he may, subject to section 9 of this Act, require him to provide a specimen of breath for a breath test.
- (2) If an accident occurs owing to the presence of a motor vehicle on a road or other public place, a constable may, subject to section 9 of this Act, require any person who he has reasonable cause to believe was driving or attempting to drive or in charge of the vehicle at the time of the accident to provide a specimen of breath for a breath test.
- (3) A person may be required under subsection (1) or subsection (2) above to provide a specimen either at or near the place where the requirement is made or, if the requirement is made under subsection (2) above and the constable making the requirement thinks fit, at a police station specified by the constable.

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- (4) A person who, without reasonable excuse, fails to provide a specimen of breath when required to do so in pursuance of this section is guilty of an offence.
- (5) A constable may arrest a person without warrant if—
- (a) as a result of a breath test he has reasonable cause to suspect that the proportion of alcohol in that person's breath or blood exceeds the prescribed limit, or
 - (b) that person has failed to provide a specimen of breath for a breath test when required to do so in pursuance of this section and the constable has reasonable cause to suspect that he has alcohol in his body,
- but a person shall not be arrested by virtue of this subsection when he is at a hospital as a patient.
- (6) A constable may, for the purpose of requiring a person to provide a specimen of breath under subsection (2) above in a case where he has reasonable cause to suspect that the accident involved injury to another person or of arresting him in such a case under subsection (5) above, enter (if need be by force) any place where that person is or where the constable, with reasonable cause, suspects him to be.
- (7) Subsection (6) above does not extend to Scotland, and nothing in that subsection shall affect any rule of law in Scotland concerning the right of a constable to enter any premises for any purpose.
- (8) In this section “traffic offence” means an offence under—
- (a) any provision of Part II of the ^{M1}Public Passenger Vehicles Act 1981,
 - (b) any provision of the ^{M2}Road Traffic Regulation Act 1984,
 - (c) any provision of the ^{M3}Road Traffic Offenders Act 1988 except Part III, or
 - (d) any provision of this Act except Part V.

Modifications etc. (not altering text)

C1 S. 6 applied (with modifications) (29.3.2004 for certain purposes and 30.3.2004 otherwise) by Railways and Transport Safety Act 2003 (c. 20), ss. 83(1)(3), 96(1)(3), 120 (with ss. 90, 100); S.I. 2004/827, arts. 2, 3

Marginal Citations

M1 1981 c. 14.
M2 1984 c. 27.
M3 1988 c. 53.

VALID FROM 29/03/2004

[^{F2}6A Preliminary breath test U.K.]

- (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 Secretary of State, an indication whether the proportion of alcohol in the person's breath or blood is likely to exceed the prescribed limit.

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- (2) A preliminary breath test administered in reliance on section 6(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 section 6(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.

Textual Amendments

- F2** Ss. 6-6E substituted (29.3.2004 for certain purposes and 30.3.2004 otherwise) for s. 6 by [Railways and Transport Safety Act 2003 \(c. 20\), ss. 107, 120, Sch. 7 para. 1; S.I. 2004/827, arts. 2, 3](#)

Modifications etc. (not altering text)

- C2** [Ss. 6A-6E](#) applied (with modifications) (29.3.2004 for certain purposes and 30.3.2004 otherwise) by [Railways and Transport Safety Act 2003 \(c. 20\), ss. 83\(1\)\(3\), 96\(1\)\(3\), 120 \(with ss. 90, 100\); S.I. 2004/827, arts. 2, 3](#)

VALID FROM 29/03/2004

6B Preliminary impairment test **U.K.**

- (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—

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- (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 section.
- (6) A constable may administer a preliminary impairment test only if he is approved for that purpose by the chief officer of the police force to which he belongs.
- (7) A code of practice under this section may include provision about—
- (a) the giving of approval under subsection (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 subsection.

Textual Amendments

- F2** Ss. 6-6E substituted (29.3.2004 for certain purposes and 30.3.2004 otherwise) for s. 6 by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. 107, 120, [Sch. 7 para. 1](#); S.I. 2004/827, [arts. 2, 3](#)

Modifications etc. (not altering text)

- C3** [Ss. 6A-6E](#) applied (with modifications) (29.3.2004 for certain purposes and 30.3.2004 otherwise) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. [83\(1\)\(3\)](#), [96\(1\)\(3\)](#), 120 (with ss. 90, 100); S.I. 2004/827, [arts. 2, 3](#)

VALID FROM 29/03/2004

6C Preliminary drug test **U.K.**

- (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 Secretary of State, 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.

Textual Amendments

- F2** Ss. 6-6E substituted (29.3.2004 for certain purposes and 30.3.2004 otherwise) for s. 6 by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. 107, 120, [Sch. 7 para. 1](#); S.I. 2004/827, [arts. 2, 3](#)

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Modifications etc. (not altering text)

- C4** Ss. 6A-6E applied (with modifications) (29.3.2004 for certain purposes and 30.3.2004 otherwise) by Railways and Transport Safety Act 2003 (c. 20), ss. 83(1)(3), 96(1)(3), 120 (with ss. 90, 100); S.I. 2004/827, arts. 2, 3

VALID FROM 29/03/2004

[^{F2}6D Arrest U.K.]

- (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 section 6, 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 section while at a hospital as a patient.]

Textual Amendments

- F2** Ss. 6-6E substituted (29.3.2004 for certain purposes and 30.3.2004 otherwise) for s. 6 by Railways and Transport Safety Act 2003 (c. 20), ss. 107, 120, Sch. 7 para. 1; S.I. 2004/827, arts. 2, 3

Modifications etc. (not altering text)

- C5** Ss. 6A-6E applied (with modifications) (29.3.2004 for certain purposes and 30.3.2004 otherwise) by Railways and Transport Safety Act 2003 (c. 20), ss. 83(1)(3), 96(1)(3), 120 (with ss. 90, 100); S.I. 2004/827, arts. 2, 3

VALID FROM 29/03/2004

6E Power of entry U.K.]

- (1) A constable may enter any place (using reasonable force if necessary) for the purpose of—
 - (a) imposing a requirement by virtue of section 6(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 section 6D following an accident in a case where the constable reasonably suspects that the accident involved injury of any person.
- (2) This section—
 - (a) does not extend to Scotland, and

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- (b) is without prejudice to any rule of law or enactment about the right of a constable in Scotland to enter any place.]

Textual Amendments

F2 Ss. 6-6E substituted (29.3.2004 for certain purposes and 30.3.2004 otherwise) for s. 6 by [Railways and Transport Safety Act 2003 \(c. 20\), ss. 107, 120, Sch. 7 para. 1; S.I. 2004/827, arts. 2, 3](#)

Modifications etc. (not altering text)

C6 [Ss. 6A-6E](#) applied (with modifications) (29.3.2004 for certain purposes and 30.3.2004 otherwise) by [Railways and Transport Safety Act 2003 \(c. 20\), ss. 83\(1\)\(3\), 96\(1\)\(3\), 120 \(with ss. 90, 100\); S.I. 2004/827, arts. 2, 3](#)

7 Provision of specimens for analysis. **U.K.**

- (1) In the course of an investigation into whether a person has committed an offence under [^{F3}section 3A, 4] or 5 of this Act a constable may, subject to the following provisions of this section and section 9 of this Act, require him—
- (a) to provide two specimens of breath for analysis by means of a device of a type approved by the Secretary of State, or
 - (b) to provide a specimen of blood or urine for a laboratory test.
- (2) A requirement under this section to provide specimens of breath can only be made at a police station.
- (3) A requirement under this section to provide a specimen of blood or urine can only be made at a police station or at a hospital; and it cannot be made at a police station unless—
- (a) the constable making the requirement has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required, or
 - (b) at the time the requirement is made a device or a reliable device of the type mentioned in subsection (1)(a) above is not available at the police station or it is then for any other reason not practicable to use such a device there, or
- [^{F4}(bb) a device of the type mentioned in subsection (1)(a) above has been used at the police station but the constable who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned, or]
- (c) the suspected offence is one under [^{F5}section 3A or 4] of this Act and the constable making the requirement has been advised by a medical practitioner that the condition of the person required to provide the specimen might be due to some drug;
- but may then be made notwithstanding that the person required to provide the specimen has already provided or been required to provide two specimens of breath.
- (4) If the provision of a specimen other than a specimen of breath may be required in pursuance of this section the question whether it is to be a specimen of blood or a specimen of urine shall be decided by the constable making the requirement, but if a medical practitioner is of the opinion that for medical reasons a specimen of blood cannot or should not be taken the specimen shall be a specimen of urine.

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- (5) A specimen of urine shall be provided within one hour of the requirement for its provision being made and after the provision of a previous specimen of urine.
- (6) A person who, without reasonable excuse, fails to provide a specimen when required to do so in pursuance of this section is guilty of an offence.
- (7) A constable must, on requiring any person to provide a specimen in pursuance of this section, warn him that a failure to provide it may render him liable to prosecution.

Textual Amendments

- F3** Words in S. 7(1) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, Sch. 4 para. 42(a); S.I. 1992/1286, art. 2, Sch.
- F4** S. 7(3)(bb) inserted (4.7.1996 but with effect (1.4.1997) as mentioned in s. 63(3)(4)) by 1996 c. 25, s. 63(1) (with s. 78(1)); S.I. 1997/682, art. 2(1)(b)
- F5** Words in s. 7(3)(c) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, Sch. 4 para. 42(b); S.I. 1992/1286, art. 2, Sch.

VALID FROM 01/10/2002

[^{F6}7A Specimens of blood taken from persons incapable of consenting **U.K.**

- (1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—
 - (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under section 9) be entitled under section 7 to require the provision of a specimen of blood for a laboratory test;
 - (b) it appears to that constable that that person has been involved in an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter;
 - (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
 - (d) it appears to that constable that that person’s incapacity is attributable to medical reasons.
- (2) A request under this section—
 - (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
 - (b) shall not be made to a medical practitioner other than a police medical practitioner unless—
 - (i) it is not reasonably practicable for the request to be made to a police medical practitioner; or
 - (ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.

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- (3) It shall be lawful for a medical practitioner to whom a request is made under this section, if he thinks fit—
 - (a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and
 - (b) to provide the sample to a constable.
- (4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—
 - (a) has been informed that it was taken; and
 - (b) has been required by a constable to give his permission for a laboratory test of the specimen; and
 - (c) has given his permission.
- (5) A constable must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission may render him liable to prosecution.
- (6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.
- (7) In this section “police medical practitioner” means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of a police force.]

Textual Amendments

F6 S. 7A inserted (1.10.2002) by 2002 c. 30, s. 56(1); S.I. 2002/2306, art. 2(d)(v)

Modifications etc. (not altering text)

C7 S. 7A applied (with modifications) (29.3.2004 for certain purposes and 30.3.2004 otherwise) by Railways and Transport Safety Act 2003 (c. 20), ss. 83(1)(3), 96(1)(3), 120 (with ss. 90, 100); S.I. 2004/827, arts. 2, 3

8 Choice of specimens of breath. **U.K.**

- (1) Subject to subsection (2) below, of any two specimens of breath provided by any person in pursuance of section 7 of this Act that with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.
- (2) If the specimen with the lower proportion of alcohol contains no more than 50 microgrammes of alcohol in 100 millilitres of breath, the person who provided it may claim that it should be replaced by such specimen as may be required under section 7(4) of this Act and, if he then provides such a specimen, neither specimen of breath shall be used.
- (3) The Secretary of State may by regulations substitute another proportion of alcohol in the breath for that specified in subsection (2) above.

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Modifications etc. (not altering text)

- C8** S. 8 applied (with modifications) (29.3.2004 for certain purposes and 30.3.2004 otherwise) by Railways and Transport Safety Act 2003 (c. 20), ss. **83(1)(3)**, **96(1)(3)**, 120 (with ss. 90, 100); S.I. 2004/827, arts. 2, 3

9 Protection for hospital patients. **U.K.**

- (1) While a person is at a hospital as a patient he shall not be required to provide a specimen of breath for a breath test or to provide a specimen for a laboratory test unless the medical practitioner in immediate charge of his case has been notified of the proposal to make the requirement; and—
- (a) if the requirement is then made, it shall be for the provision of a specimen at the hospital, but
 - (b) if the medical practitioner objects on the ground specified in subsection (2) below, the requirement shall not be made.
- (2) The ground on which the medical practitioner may object is that the requirement or the provision of a specimen or, in the case of a specimen of blood or urine, the warning required under section 7(7) of this Act, would be prejudicial to the proper care and treatment of the patient.

10 Detention of persons affected by alcohol or a drug. **U.K.**

- (1) Subject to subsections (2) and (3) below, a person required to provide a specimen of breath, blood or urine may afterwards be detained at a police station until it appears to the constable that, were that person then driving or attempting to drive a [^{F7}mechanically propelled vehicle] on a road, he would not be committing an offence under section 4 or 5 of this Act.
- (2) A person shall not be detained in pursuance of this section if it appears to a constable that there is no likelihood of his driving or attempting to drive a [^{F7}mechanically propelled vehicle] whilst his ability to drive properly is impaired or whilst the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.
- (3) A constable must consult a medical practitioner on any question arising under this section whether a person's ability to drive properly is or might be impaired through drugs and must act on the medical practitioner's advice.

Textual Amendments

- F7** Words in s. 10(1)(2) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 48, **Sch. 4 para. 43**; S.I. 1992/1286, art. 2, Sch.

Modifications etc. (not altering text)

- C9** S. 10 applied (with modifications) (29.3.2004 for certain purposes and 30.3.2004 otherwise) by Railways and Transport Safety Act 2003 (c. 20), ss. **83(1)(3)**, **96(1)(3)**, 120 (with ss. 90, 100); S.I. 2004/827, arts. 2, 3

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11 Interpretation of sections 4 to 10. **E+W+S**

- (1) The following provisions apply for the interpretation of sections [F83A] to 10 of this Act.
- (2) In those sections—
 - “breath test” means a preliminary test for the purpose of obtaining, by means of a device of a type approved by the Secretary of State, an indication whether the proportion of alcohol in a person’s breath or blood is likely to exceed the prescribed limit,
 - “drug” includes any intoxicant other than alcohol,
 - “fail” includes refuse,
 - “hospital” means an institution which provides medical or surgical treatment for in-patients or out-patients,
 - “the prescribed limit” means, as the case may require—
 - (a) 35 microgrammes of alcohol in 100 millilitres of breath,
 - (b) 80 milligrammes of alcohol in 100 millilitres of blood, or
 - (c) 107 milligrammes of alcohol in 100 millilitres of urine,or such other proportion as may be prescribed by regulations made by the Secretary of State.
- (3) A person does not provide a specimen of breath for a breath test or for analysis unless the specimen—
 - (a) is sufficient to enable the test or the analysis to be carried out, and
 - (b) is provided in such a way as to enable the objective of the test or analysis to be satisfactorily achieved.
- (4) A person provides a specimen of blood if and only if he consents to its being taken by a medical practitioner and it is so taken.

Textual Amendments

- F8** Words "3A" in s. 11(1) substituted (1.7.1992) by [Road Traffic Act 1991 \(c. 40, SIF 107:1\)](#), s. 48, [Sch. 4 para.44](#); [S.I. 1992/1286](#), [art. 2](#), Sch.

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Changes to legislation:

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