



Road Traffic Act 1988

1988 CHAPTER 52

PART I

PRINCIPAL ROAD SAFETY PROVISIONS

Motor vehicles: drink and drugs

4 Driving, or being in charge, when under influence of drink or drugs.

- (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) [^{F2}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) [^{F2}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.]
- (8) ^{F2}.....

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Changes to legislation: Road Traffic Act 1988, Cross Heading: Motor vehicles: drink and drugs is up to date with all changes known to be in force on or before 26 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. (See end of Document for details)

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.](#)
- F2** [S. 4\(6\)\(7\)](#) repealed (E.W.) (1.1.2006) and s. 4(8) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 111, 174(2), 178, [Sch. 7 para. 27\(2\)\(4\)](#), [Sch. 17 Pt. 2](#); S.I. 2005/3495, [art. 2\(1\)\(m\)\(u\)](#) (subject to [art. 2\(2\)](#))

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

- (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.

[^{F3}6 Power to administer preliminary tests

- (1) If any of subsections (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 subsection 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 subsection 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 subsection 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 subsection applies if—
- (a) an accident occurs owing to the presence of a motor vehicle on a road or other public place, and

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- (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 section.
- (7) A constable may administer a preliminary test by virtue of any of subsections (2) to (4) only if he is in uniform.
- (8) In this section—
 - (a) a reference to a preliminary test is to any of the tests described in sections 6A to 6C, and
 - (b) “traffic offence” means an offence under—
 - (i) a provision of Part II of the Public Passenger Vehicles Act 1981 (c. 14),
 - (ii) a provision of the Road Traffic Regulation Act 1984 (c. 27),
 - (iii) a provision of the Road Traffic Offenders Act 1988 (c. 53) other than a provision of Part III, or
 - (iv) a provision of this Act other than a provision of Part V.]

Textual Amendments

F3 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, [art. 2, 3](#)

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](#)

[^{F4}6A Preliminary breath test

- (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.
- (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.

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Textual Amendments

F4 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](#)

6B Preliminary impairment test

- (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 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

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- (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

- F4** 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](#)

6C Preliminary drug test

- (1) A preliminary drug test is a procedure by which a specimen of sweat or saliva is—
- obtained, and
 - 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—
- at or near the place where the requirement to co-operate with the test is imposed, or
 - if the constable who imposes the requirement thinks it expedient, at a police station specified by him.

Textual Amendments

- F4** 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)

- 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](#)

6D Arrest

- (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.

[The fact that specimens of breath have been provided under section 7 of this Act by the ^{F5}(1A) person concerned does not prevent subsection (1) above having effect if the constable who imposed on him the requirement to provide the specimens has reasonable cause to believe that the device used to analyse the specimens has not produced a reliable indication of the proportion of alcohol in the breath of the person.]

- (2) A constable may arrest a person without warrant if—

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- (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.

[A person arrested under this section may, instead of being taken to a police station, ^{F6}(2A) be detained at or near the place where the preliminary test was, or would have been, administered, with a view to imposing on him there a requirement under section 7 of this Act.]

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

Textual Amendments

- F4** 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](#)
- F5** S. 6D(1A) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 154\(2\)](#), 178; S.I. 2005/1521, [art. 3\(1\)](#) (subject to [art. 3\(4\)\(5\)](#))
- F6** S. 6D(2A) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 154\(3\)](#), 178; S.I. 2005/1521, [art. 3\(1\)](#) (subject to [art. 3\(4\)\(5\)](#))

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](#)

6E Power of entry

(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
- (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

- F4** 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](#)

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7 Provision of specimens for analysis.

(1) In the course of an investigation into whether a person has committed an offence under [F7]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.

[F8(2) A requirement under this section to provide specimens of breath can only be made—

- (a) at a police station,
- (b) at a hospital, or
- (c) at or near a place where a relevant breath test has been administered to the person concerned or would have been so administered but for his failure to co-operate with it.

(2A) For the purposes of this section “a relevant breath test” is a procedure involving the provision by the person concerned of a specimen of breath to be used for the purpose of obtaining an indication whether the proportion of alcohol in his breath or blood is likely to exceed the prescribed limit.

(2B) A requirement under this section to provide specimens of breath may not be made at or near a place mentioned in subsection (2)(c) above unless the constable making it—

- (a) is in uniform, or
- (b) has imposed a requirement on the person concerned to co-operate with a relevant breath test in circumstances in which section 6(5) of this Act applies.

(2C) Where a constable has imposed a requirement on the person concerned to co-operate with a relevant breath test at any place, he is entitled to remain at or near that place in order to impose on him there a requirement under this section.

(2D) If a requirement under subsection (1)(a) above has been made at a place other than at a police station, such a requirement may subsequently be made at a police station if (but only if)—

- (a) a device or a reliable device of the type mentioned in subsection (1)(a) above was not available at that place or it was for any other reason not practicable to use such a device there, or
- (b) the constable who made the previous requirement has reasonable cause to believe that the device used there has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned.]

(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) [F9]specimens of breath have not been provided elsewhere and]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

[F10(bb) a device of the type mentioned in subsection (1)(a) above has been used [F11(at the police station or elsewhere)] but the constable who required the specimens

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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]

[^{F12}(bc) as a result of the administration of a preliminary drug test, the constable making the requirement has reasonable cause to believe that the person required to provide a specimen of blood or urine has a drug in his body, or]

(c) the suspected offence is one under [^{F13}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 [^{F14}and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to subsection (4A)) by the constable making the requirement].

[^{F15}(4A) Where a constable decides for the purposes of subsection (4) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if—

- (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
- (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner;

and, where by virtue of this subsection there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.]

(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

- F7** 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.](#)
- F8** [S. 7\(2\)-\(2D\)](#) substituted (1.7.2005) for s. 7(2) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 154\(5\)](#), 178; S.I. 2005/1521, [art. 3\(1\)](#) (subject to [art. 3\(4\)\(5\)](#))
- F9** Words in s. 7(3)(b) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 154\(6\)\(a\)](#), 178; S.I. 2005/1521, [art. 3\(1\)](#) (subject to [art. 3\(4\)\(5\)](#))
- F10** [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\(1\)\(b\)](#)
- F11** Words in s. 7(3)(bb) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 154\(6\)\(b\)](#), 178; S.I. 2005/1521, [art. 3\(1\)](#) (subject to [art. 3\(4\)\(5\)](#))
- F12** [S. 7\(3\)\(bc\)](#) inserted (30.3.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), [ss. 107](#), 120, [Sch. 7 para. 2](#); S.I. 2004/827, [art. 3](#)
- F13** 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.](#)

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- F14** Words in s. 7(4) substituted (1.4.2003) by [Police Reform Act 2002 \(c. 30\), ss. 55\(1\), 108\(2\); S.I. 2003/808, art. 2\(e\)](#)
- F15** S. 7(4A) inserted (1.4.2003) by [Police Reform Act 2002 \(c. 30\), ss. 55\(2\), 108\(2\); S.I. 2003/808, art. 2\(e\)](#)

Modifications etc. (not altering text)

- C7** S. 7 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](#)

[^{F16}7A **Specimens of blood taken from persons incapable of consenting**

- (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.
- (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.

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- (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

F16 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)

C8 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.

- (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.
- [^{F17}(2A) If the person who makes a claim under subsection (2) above was required to provide specimens of breath under section 7 of this Act at or near a place mentioned in subsection (2)(c) of that section, a constable may arrest him without warrant.]
- (3) The Secretary of State may by regulations substitute another proportion of alcohol in the breath for that specified in subsection (2) above.

Textual Amendments

F17 S. 8(2A) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 154(7), 178; S.I. 2005/1521, art. 3(1) (subject to art. 3(4)(5))

Modifications etc. (not altering text)

C9 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

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9 Protection for hospital patients.

(1) While a person is at a hospital as a patient he shall not be required [^{F18}to co-operate with a preliminary test] or to provide a specimen [^{F19}under section 7 of this Act] 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, [^{F20}it shall be for co-operation with a test administered, or 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.

[^{F21}(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under section 7A of this Act and he shall not be required to give his permission for a laboratory test of a specimen taken under that section unless the medical practitioner in immediate charge of his case—

- (a) has been notified of the proposal to take the specimen or to make the requirement; and
- (b) has not objected on the ground specified in subsection (2).

^{F21}(2) The ground on which the medical practitioner may object is—

- (a) in a case falling within subsection (1), that the requirement or the provision of the specimen or (if one is required) the warning required by section 7(7) of this Act would be prejudicial to the proper care and treatment of the patient; and
- (b) in a case falling within subsection (1A), that the taking of the specimen, the requirement or the warning required by section 7A(5) of this Act would be so prejudicial.]

Textual Amendments

- F18** Words in s. 9(1) substituted (30.3.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. 107, 120, [Sch. 7 para. 3\(a\)](#); S.I. 2004/827, [art. 3](#)
- F19** Words in s. 9(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 154(8), 178; S.I. 2005/1521, [art. 3\(1\)](#) (subject to [art. 3\(4\)\(5\)](#))
- F20** Words in s. 9(1)(a) substituted (30.3.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. 107, 120, [Sch. 7 para. 3\(b\)](#); S.I. 2004/827, [art. 3](#)
- F21** S. 9(1A)(2) substituted for s. 9(2) (1.10.2002) by [2002 c. 30, s. 56\(2\)](#); S.I. 2002/2306, [art. 2\(d\)\(v\)](#)

Modifications etc. (not altering text)

- C10** S. 9 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](#)

10 Detention of persons affected by alcohol or a drug.

(1) Subject to subsections (2) and (3) below, a person required [^{F22}under section 7 or 7A] to provide a specimen of breath, blood or urine may afterwards be detained at a police station [^{F23}(or, if the specimen was provided otherwise than at a police station, arrested and taken to and detained at a police station) if a constable has reasonable grounds for believing] that, were that person then driving or attempting to drive a [^{F24}mechanically propelled vehicle] on a road, he would [^{F25}commit] an offence under section 4 or 5 of this Act.

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- (2) [^{F26}Subsection (1) above does not apply to the person if it ought reasonably to appear to the] constable that there is no likelihood of his driving or attempting to drive a [^{F24}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.
- [^{F27}(2A) A person who is at a hospital as a patient shall not be arrested and taken from there to a police station in pursuance of this section if it would be prejudicial to his proper care and treatment as a patient.]
- (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

- F22** Words in s. 10(1) inserted (30.3.2004) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), ss. 107, 120, [Sch. 7 para. 4](#); [S.I. 2004/827](#), [art. 3](#)
- F23** Words in s. 10(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. [154\(10\)\(a\)](#), 178; [S.I. 2005/1521](#), [art. 3\(1\)](#) (subject to [art. 3\(4\)\(5\)](#))
- F24** 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.
- F25** Words in s. 10(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. [154\(10\)\(b\)](#), 178; [S.I. 2005/1521](#), [art. 3\(1\)](#) (subject to [art. 3\(4\)\(5\)](#))
- F26** Words in s. 10(2) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. [154\(11\)](#), 178; [S.I. 2005/1521](#), [art. 3\(1\)](#) (subject to [art. 3\(4\)\(5\)](#))
- F27** S. 10(2A) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. [154\(12\)](#), 178; [S.I. 2005/1521](#), [art. 3\(1\)](#) (subject to [art. 3\(4\)\(5\)](#))

Modifications etc. (not altering text)

- C11** 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](#)

11 Interpretation of sections 4 to 10.

- (1) The following provisions apply for the interpretation of sections [^{F28}3A] to 10 of this Act.
- (2) In those sections—
- ^{F29} . . .
- “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,

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or such other proportion as may be prescribed by regulations made by the Secretary of State.

[^{F30}“registered health care professional” means a person (other than a medical practitioner) who is—

- (a) a registered nurse; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.]

[^{F31}(2A) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(2B) An order under subsection (2) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

(3) [^{F32}A person does not co-operate with a preliminary test or provide a specimen of breath for analysis unless his co-operation or 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.

[^{F33}(4) A person provides a specimen of blood if and only if—

- (a) he consents to the taking of such a specimen from him; and
- (b) the specimen is taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional.]

Textual Amendments

F28 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.](#)

F29 In s. 11(2) definition of "breath test" repealed (30.3.2004) by [Railways and Transport Safety Act 2003](#), (c. 20), ss. 107, 118, 120, [Sch. 7 para. 5\(a\)](#), {[Sch. 8](#)}; [S.I. 2004/827, art. 3](#)

F30 In s. 11(2) definition of "registered health care professional" inserted (1.10.2002 for certain purposes and 1.4.2003 otherwise) by [Police Reform Act 2002 \(c. 30\)](#), ss. 55(3), 108(2); [S.I. 2002/2306, art. 4\(d\)](#); [S.I. 2003/808, art. 2\(e\)](#)

F31 S. 11(2A)(2B) inserted (1.10.2002 for certain purposes and 1.4.2003 otherwise) by [Police Reform Act 2002 \(c. 30\)](#), ss. 55(4), 108(2); [S.I. 2002/2306, art. 4\(d\)](#); [S.I. 2003/808, art. 2\(e\)](#)

F32 Words in s. 11(3) substituted (30.3.2004) by [Railways and Transport Safety Act 2003 \(c. 30\)](#), ss. 107, 120, [Sch. 7 para. 5\(b\)](#); [S.I. 2004/827, art. 3](#)

F33 S. 11(4) substituted (1.4.2003) by [Police Reform Act 2002 \(c. 30\)](#), ss. 55(5), 108(2); [S.I. 2003/808, art. 2\(e\)](#)

Modifications etc. (not altering text)

C12 S. 11 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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