

Status: Point in time view as at 10/04/2015.

Changes to legislation: There are currently no known outstanding effects for the Railways and Transport Safety Act 2003, SCHEDULE 7. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Section 107

ROAD TRAFFIC: TESTING FOR DRINK AND DRUGS

- 1 For section 6 of the Road Traffic Act 1988 (c. 52) (testing for drink or drugs) substitute—

“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
 - (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

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- (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.

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.

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.

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- (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
 - (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.

6C Preliminary drug test

- (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.

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.
- (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.

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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.”

Commencement Information

- I1** Sch. 7 para. 1 in force at 29.3.2004 for specified purposes by S.I. 2004/827, art. 2(b)
I2 Sch. 7 para. 1 in force at 30.3.2004 in so far as not already in force by S.I. 2004/827, art. 3(ii)

- 2 In section 7(3) of that Act (provision of specimen for analysis) after the word “or” after subsection (bb) insert—
- “(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”.

Commencement Information

- I3** Sch. 7 para. 2 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 3 In section 9(1) of that Act (protection for hospital patients)—
- (a) for “to provide a specimen of breath for a breath test” substitute “ to co-operate with a preliminary test ”, and
 - (b) in paragraph (a), for “it shall be for the provision of a specimen at the hospital” substitute “ it shall be for co-operation with a test administered, or for the provision of a specimen, at the hospital ”.

Commencement Information

- I4** Sch. 7 para. 3 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 4 In section 10(1) of that Act (detention of persons affected by alcohol or drugs) in subsection (1) after “a person required” insert “ under section 7 or 7A ”.

Commencement Information

- I5** Sch. 7 para. 4 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

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- 5 In section 11 of that Act (interpretation)—
- (a) in subsection (2), omit the definition of “breath test”, and
 - (b) in subsection (3) for “A person does not provide a specimen of breath for a breath test or for analysis unless the specimen” substitute “ 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 ”.

Commencement Information

I6 Sch. 7 para. 5 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 6 In section 184(1)(f) of that Act (application of sections 5 to 10 to military personnel) for “in section 6(1) the reference to a traffic offence” substitute “ in section 6 a reference to a traffic offence ”.

Commencement Information

I7 Sch. 7 para. 6 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 7 In Schedule 1 to the Road Traffic Offenders Act 1988 (c. 53) (offences to which certain provisions apply), in the entry for section 6 of the Road Traffic Act 1988 (c. 52) for the description of the general nature of the offence substitute “ Failing to co-operate with a preliminary test ”.

Commencement Information

I8 Sch. 7 para. 7 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 8 In Schedule 2 to that Act (prosecution and punishment of offenders), in the entry for section 6 of the Road Traffic Act 1988 (c. 52) for the description of the general nature of the offence substitute “ Failing to co-operate with a preliminary test ”.

Commencement Information

I9 Sch. 7 para. 8 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 9 In section 34A(1D)(a) of the Army Act 1955 (c. 18) (testing for drugs) for subparagraph (i) substitute—
“(i) any provision of the Road Traffic Act 1988 (c. 52),”.

Commencement Information

I10 Sch. 7 para. 9 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 10 In section 34A(1D)(a) of the Air Force Act 1955 (c. 19) (testing for drugs) for subparagraph (i) substitute—
“(i) any provision of the Road Traffic Act 1988 (c. 52),”.

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Commencement Information

I11 Sch. 7 para. 10 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 11 In section 12A(1D)(a) of the Naval Discipline Act 1957 (c. 53) (testing for drugs) for sub-paragraph (i) substitute—
“(i) any provision of the Road Traffic Act 1988 (c. 52),”.

Commencement Information

I12 Sch. 7 para. 11 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 12 In section 34(6) of the Police and Criminal Evidence Act 1984 (c. 60) (arrest) for “section 6(5) of the Road Traffic Act 1988” substitute “ section 6D of the Road Traffic Act 1988 ”.

Commencement Information

I13 Sch. 7 para. 12 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

- 13 In section 32(8)(a) of the Armed Forces Act 2001 (c. 19) (testing for drink or drugs) for sub-paragraph (i) substitute—
“(i) any provision of the Road Traffic Act 1988 (c. 52),”.

Commencement Information

I14 Sch. 7 para. 13 in force at 30.3.2004 by S.I. 2004/827, art. 3(ii)

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