

*These notes refer to the Railways and Transport Safety Act 2003 (c.20) which received Royal Assent on 10 July 2003*

# **RAILWAYS AND TRANSPORT SAFETY ACT 2003**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### ***Schedule 6 – Convention on International Carriage by Rail***

#### **Human Rights assessment**

#### ***Section 107 & Schedule 7 – Road traffic: testing for drink and drugs***

191. [Schedule 7](#) contains six new sections designed to replace section 6 of the Road Traffic Act 1988 (breath tests) with new powers for the police to administer three preliminary tests – a breathalyser test, a test indicating whether a person is unfit to drive due to drink or drugs and a test for the presence of drugs in a person’s body. Schedule 7 also makes consequential amendments.
192. The new section 6 enables a constable to require a person to co-operate with any one or more preliminary tests in certain circumstances. The person would commit an offence if without reasonable excuse he failed to co-operate. The circumstances include –
- a) where a constable reasonably suspects that the person –
    - 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 still has alcohol or a drug in his body or is still under the influence of a drug;
    - has committed a traffic offence while the vehicle was in motion,
  - b) where an accident occurs owing to the presence of a motor vehicle on a road or other public place.
193. The preliminary tests are:
- a breath test whereby a specimen of breath is taken by means of a device approved by the Secretary of State which indicates whether the proportion of alcohol in a person’s breath or blood is likely to exceed the prescribed limit (section 6A).
  - an impairment test which consists of a series of physical tasks set by the constable. By observing the person’s ability to perform these tasks, and making such other observations of the person’s physical state as the constable thinks expedient, the constable can obtain an indication whether the person is unfit to drive and, if he is, whether his unfitness is likely to be due to drink or drugs. The Secretary of State is required to issue and to keep under review a code of practice regarding such tests (section 6B).

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- a drug test whereby a specimen of sweat or saliva is used, by means of a device approved by the Secretary of State, for the purpose of obtaining an indication whether a person has a drug in his body (section 6C).
194. Sections 6A, 6B and 6C also make provision as to where a test may be carried out.
195. Sections 6D and 6E make provision about powers of arrest and powers of entry respectively in connection with the administration of the preliminary tests.