

SCOTLAND ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS (AND SCHEDULES)

Part 2: Ministers and Their Powers

Section 20: Power to prescribe drink-driving limits

69. This section amends sections 8(3) and 11(2) of the Road Traffic Act 1988 ('RTA') to give Scottish Ministers powers to make regulations in relation to the prescribed alcohol limit which applies when driving in Scotland. The RTA includes two offences which apply where the driver of a motor vehicle has consumed so much alcohol that he exceeds the prescribed limit. These are: the offence of causing death by careless driving when under the influence of drink (section 3A(1)(b)) and the offence of driving or being in charge of a motor vehicle with an alcohol concentration above the prescribed limit (section 5(1)).
70. Under the RTA, Scottish Ministers currently have no powers in relation to the prescribed alcohol limit for driving in Scotland. The amendment to section 11(2) of the RTA and the new subsection (2ZA) provided for by *subsections (5) to (7)* will enable Scottish Ministers to change the prescribed alcohol limit for drivers on Scottish roads.
71. Section 8(2) of the RTA provides a right for certain drivers who have given an evidential sample in breath to substitute for it a sample of blood or urine. This right applies to drivers whose evidential breath sample is not more than the amount specified. Section 8(3) of the RTA allows that amount to be varied, so that a link can be maintained with the prescribed limit under section 11(2). The amendment to section 8(3) and the new subsection (4), provided for by *subsections (2) to (4)*, will give Scottish Ministers the power to vary that amount in relation to drivers suspected of having committed a relevant offence in Scotland.