



Transport and Works Act 1992

1992 CHAPTER 42

PART II

SAFETY OF RAILWAYS ETC

CHAPTER I

OFFENCES INVOLVING DRINK OR DRUGS

Miscellaneous and supplementary

37 Special provision for Scotland.

- (1) Section 30(3) and (4) above shall not extend to Scotland, and nothing in those subsections shall affect any rule of law in Scotland concerning the right of a constable to enter any premises for any purpose.
- (2) In proceedings for any offence under section 27 above in Scotland—
 - (a) a document produced in evidence on behalf of the prosecution in pursuance of section 35 above and, where the person by whom the document was signed is called as a witness, the evidence of that person, shall be sufficient evidence of the facts stated in the document, and
 - (b) a written execution purporting to be signed by the person who handed to or served on the accused or the prosecutor a copy document or notice under section 35 above, together with, where appropriate, a post office receipt for the relevant registered or recorded delivery letter, shall be sufficient evidence of the handing or service of the copy document or notice.

Commencement Information

II Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and S.I. 1992/2043, art. 2(a).

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, Cross Heading: Miscellaneous and supplementary. (See end of Document for details)

38 Interpretation of Chapter I.

(1) In this Chapter—

“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.

(2) In this Chapter “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.

[^{F1}(2A) In this Chapter “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.

(2B) 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.

(2C) An order under subsection (2A)(b) 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) For the purposes of this Chapter, it is immaterial whether a person who works on a transport system does so in the course of his employment, under a contract for services, voluntarily or otherwise.

(4) For the purposes of this Chapter, 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.

[^{F2}(5) For the purposes of this Chapter, 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 ^{F3}... either by a medical practitioner or by a registered health care professional.]

(6) The power to make regulations under subsection (2) above shall be exercisable by statutory instrument; and no such regulations shall be made unless a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, Cross Heading: Miscellaneous and supplementary. (See end of Document for details)

Textual Amendments

- F1** S. 38(2A)-(2C) inserted (1.10.2002 for specified purposes, 1.4.2003 in so far as not already in force) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 58(10)**, 108(2); S.I. 2002/2306, art. 4(d); S.I. 2003/808, art. 2(e)
- F2** S. 38(5) substituted (1.4.2003) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 58(11)**, 108(2); S.I. 2003/808, art. 2(e)
- F3** Words in s. 38(5)(b) omitted (10.4.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 11 para. 13**; S.I. 2015/994, art. 4

Commencement Information

- I2** Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and [S.I. 1992/2043](#), **art. 2(a)**.

39 Amendment of scope of offences involving drink or drugs under Road Traffic Act 1988.

The following section shall be inserted in the ^{M1}Road Traffic Act 1988 after section 192—

“192A Tramcars and other guided vehicles: drink and drugs.

- (1) Sections 4 to 11 of this Act shall not apply (to the extent that apart from this subsection they would) to vehicles on any transport system to which Chapter I of Part II of the Transport and Works Act 1992 (offences involving drink or drugs on railways, tramways and certain other guided transport systems) applies.
- (2) Subject to subsection (1) above, the Secretary of State may by regulations provide that sections 4 to 11 of this Act shall apply to vehicles on a system of guided transport specified in the regulations with such modifications as he considers necessary or expedient.
- (3) Regulations under subsection (2) above may make different provision for different cases.
- (4) In this section—

“guided transport” means transport by vehicles guided by means external to the vehicles (whether or not the vehicles are also capable of being operated in some other way), and

“vehicle” includes mobile traction unit.”

Commencement Information

- I3** Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and [S.I. 1992/2043](#), **art. 2(a)**.

Marginal Citations

- M1** 1988 c. 52.

^{F4}40 Consequential amendment.

.....

Changes to legislation: *There are currently no known outstanding effects for the Transport and Works Act 1992, Cross Heading: Miscellaneous and supplementary. (See end of Document for details)*

.....

Textual Amendments

- F4** [S. 40](#) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2005/3495](#), art. 2(1)(u)

Changes to legislation:

There are currently no known outstanding effects for the Transport and Works Act 1992, Cross
Heading: Miscellaneous and supplementary.