
Changes to legislation: There are currently no known outstanding effects for the Railways and Transport Safety Act 2003, Paragraph 1. (See end of Document for details)

SCHEDULES

SCHEDULE 7

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)

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