



This is an extract of the

Road Traffic Act 1988

Motor vehicles: drink and drugs

4. Driving, or being in charge, when under influence of drink or drugs.
5. Driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit.
6. Breath tests.
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4 Driving or being in charge, when under influence of drink or drugs

- (1) A person who, when driving or attempting to drive a motor vehicle on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.
- (2) Without prejudice to subsection (1) above, a person who, when in charge of a motor vehicle which is on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.
- (3) For the purposes of subsection (2) above, a person shall be deemed not to have been in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of his driving it so long as he remained unfit to drive through drink or drugs.
- (4) The court may, in determining whether there was such a likelihood as is mentioned in subsection (3) above, disregard any injury to him and any damage to the vehicle.
- (5) For the purposes of this section, a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.
- (6) A constable may arrest a person without warrant if he has reasonable cause to suspect that that person is or has been committing an offence under this section.
- (7) For the purpose of arresting a person under the power conferred by subsection (6) above, a constable may enter (if need be by force) any place where that person is or where the constable, with reasonable cause, suspects him to be.
- (8) Subsection (7) above does not extend to Scotland, and nothing in that subsection affects any rule of law in Scotland concerning the right of a constable to enter any premises for any purpose.

5 Driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit

- (1) If a person—
 - (a) drives or attempts to drive a motor vehicle on a road or other public place, or
 - (b) is in charge of a motor vehicle on a road or other public place,after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit he is guilty of an offence.
- (2) It is a defence for a person charged with an offence under subsection (1)(b) above to prove that at the time he is alleged to have committed the offence the circumstances were such that

there was no likelihood of his driving the vehicle whilst the proportion of alcohol in his breath, blood or urine remained likely to exceed the prescribed limit.

(3) The court may, in determining whether there was such a likelihood as is mentioned in subsection (2) above, disregard any injury to him and any damage to the vehicle.

6 Breath tests

(1) Where a constable in uniform has reasonable cause to suspect—

(a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his body or has committed a traffic offence whilst the vehicle was in motion, or

(b) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place with alcohol in his body and that that person still has alcohol in his body, or

(c) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place and has committed a traffic offence whilst the vehicle was in motion,

he may, subject to section 9 of this Act, require him to provide a specimen of breath for a breath test.

(2) If an accident occurs owing to the presence of a motor vehicle on a road or other public place, a constable may, subject to section 9 of this Act, require any person who he has reasonable cause to believe was driving or attempting to drive or in charge of the vehicle at the time of the accident to provide a specimen of breath for a breath test.

(3) A person may be required under subsection (1) or subsection (2) above to provide a specimen either at or near the place where the requirement is made or, if the requirement is made under subsection (2) above and the constable making the requirement thinks fit, at a police station specified by the constable.

(4) A person who, without reasonable excuse, fails to provide a specimen of breath when required to do so in pursuance of this section is guilty of an offence.

(5) A constable may arrest a person without warrant if—

(a) as a result of a breath test he has reasonable cause to suspect that the proportion of alcohol in that person's breath or blood exceeds the prescribed limit, or

(b) that person has failed to provide a specimen of breath for a breath test when required to do so in pursuance of this section and the constable has reasonable cause to suspect that he has alcohol in his body,

but a person shall not be arrested by virtue of this subsection when he is at a hospital as a patient.

(6) A constable may, for the purpose of requiring a person to provide a specimen of breath under subsection (2) above in a case where he has reasonable cause to suspect that the accident involved injury to another person or of arresting him in such a case under subsection (5) above, enter (if need be by force) any place where that person is or where the constable, with reasonable cause, suspects him to be.

(7) Subsection (6) above does not extend to Scotland, and nothing in that subsection shall affect any rule of law in Scotland concerning the right of a constable to enter any premises for any purpose.

(8) In this section "traffic offence" means an offence under—

(a) any provision of Part II of the [1981 c. 14.] Public Passenger Vehicles Act 1981,

(b) any provision of the [1984 c. 27.] Road Traffic Regulation Act 1984,

(c) any provision of the [1988 c. 53.] Road Traffic Offenders Act 1988 except Part III, or

(d) any provision of this Act except Part V.

7 Provision of specimens for analysis

(1) In the course of an investigation into whether a person has committed an offence under section 4 or 5 of this Act a constable may, subject to the following provisions of this section and section 9 of this Act, require him—

(a) to provide two specimens of breath for analysis by means of a device of a type approved by the Secretary of State, or

(b) to provide a specimen of blood or urine for a laboratory test.

(2) A requirement under this section to provide specimens of breath can only be made at a police station.

(3) A requirement under this section to provide a specimen of blood or urine can only be made at a police station or at a hospital; and it cannot be made at a police station unless—

(a) the constable making the requirement has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required, or

(b) at the time the requirement is made a device or a reliable device of the type mentioned in subsection (1)(a) above is not available at the police station or it is then for any other reason not practicable to use such a device there, or

(c) the suspected offence is one under section 4 of this Act and the constable making the requirement has been advised by a medical practitioner that the condition of the person required to provide the specimen might be due to some drug;

but may then be made notwithstanding that the person required to provide the specimen has already provided or been required to provide two specimens of breath.

(4) If the provision of a specimen other than a specimen of breath may be required in pursuance of this section the question whether it is to be a specimen of blood or a specimen of urine shall be decided by the constable making the requirement, but if a medical practitioner is of the opinion that for medical reasons a specimen of blood cannot or should not be taken the specimen shall be a specimen of urine.

(5) A specimen of urine shall be provided within one hour of the requirement for its provision being made and after the provision of a previous specimen of urine.

(6) A person who, without reasonable excuse, fails to provide a specimen when required to do so in pursuance of this section is guilty of an offence.

(7) A constable must, on requiring any person to provide a specimen in pursuance of this section, warn him that a failure to provide it may render him liable to prosecution.

8 Choice of specimens of breath

(1) Subject to subsection (2) below, of any two specimens of breath provided by any person in pursuance of section 7 of this Act that with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

(2) If the specimen with the lower proportion of alcohol contains no more than 50 microgrammes of alcohol in 100 millilitres of breath, the person who provided it may claim that it should be replaced by such specimen as may be required under section 7(4) of this Act and, if he then provides such a specimen, neither specimen of breath shall be used.

(3) The Secretary of State may by regulations substitute another proportion of alcohol in the breath for that specified in subsection (2) above.

9 Protection for hospital patients

(1) While a person is at a hospital as a patient he shall not be required to provide a specimen of breath for a breath test or to provide a specimen for a laboratory test unless the medical practitioner in immediate charge of his case has been notified of the proposal to make the requirement; and—

(a) if the requirement is then made, it shall be for the provision of a specimen at the hospital, but

(b) if the medical practitioner objects on the ground specified in subsection (2) below, the requirement shall not be made.

(2) The ground on which the medical practitioner may object is that the requirement or the provision of a specimen or, in the case of a specimen of blood or urine, the warning required under section 7(7) of this Act, would be prejudicial to the proper care and treatment of the patient.

10 Detention of persons affected by alcohol or a drug

(1) Subject to subsections (2) and (3) below, a person required to provide a specimen of breath, blood or urine may afterwards be detained at a police station until it appears to the constable that, were that person then driving or attempting to drive a motor vehicle on a road, he would not be committing an offence under section 4 or 5 of this Act.

(2) A person shall not be detained in pursuance of this section if it appears to a constable that there is no likelihood of his driving or attempting to drive a motor vehicle whilst his ability to drive properly is impaired or whilst the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.

(3) A constable must consult a medical practitioner on any question arising under this section whether a person's ability to drive properly is or might be impaired through drugs and must act on the medical practitioner's advice.

11 Interpretation of sections 4 to 10

(1) The following provisions apply for the interpretation of sections 4 to 10 of this Act.

(2) In those sections—

- "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,
- "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.

(3) 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.

(4) A person provides a specimen of blood if and only if he consents to its being taken by a medical practitioner and it is so taken.

30 Cycling when under influence of drink or drugs

(1) A person who, when riding a cycle on a road or other public place, is unfit to ride through drink or drugs (that is to say, is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the cycle) is guilty of an offence.

(2) In Scotland a constable may arrest without warrant a person committing an offence under this section.

(3) In this section "road" includes a bridleway.