

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 22: Drugs and driving: minor and consequential amendments

676. *Paragraph 2* amends section 3A of the 1988 Act so that if the person had been driving carelessly and had a controlled drug in the blood or urine in excess of the specified limit for that drug, the person could be charged with the more heavily penalised offence in that section of causing death by careless driving when under the influence of drink or drugs.
677. *Paragraph 3* amends section 6C of the 1988 Act so as to allow up to three preliminary tests of saliva or sweat to be taken when testing for drugs. The current position is that one test can be taken, but this would be insufficient for the purposes of the new offence, given that current drug screening technology can test for a limited range of drugs only using a single preliminary test. Evidential testing for drugs would continue to be through blood or urine samples. Saliva or sweat tests would therefore not be used in the same way as evidential breath tests are for drink driving and indeed sweat tests are not under consideration even as preliminary tests. For drink driving breath tests are the most frequent method used for both preliminary and evidential testing.
678. *Paragraph 4* amends section 6D of the 1988 Act to allow for a power of arrest after a preliminary drug test relating to the new section 5A offence.
679. *Paragraph 10* amends section 15 of the Road Traffic Offenders Act 1988 to provide for certain assumptions to be made about the level of a drug in the body at the time of a suspected offence compared to the time when an evidential test is taken. The amendments parallel provisions related to the prescribed drink drive limit.