

SCHEDULES

SCHEDULE 22

Section 56

DRUGS AND DRIVING: MINOR AND CONSEQUENTIAL AMENDMENTS

Road Traffic Act 1988 (c. 52)

- 1 The Road Traffic Act 1988 is amended as follows.
- 2 (1) Section 3A (causing death by careless driving when under influence of drink or drugs) is amended as follows.
 - (2) In subsection (1), after paragraph (b) insert—
 - “(ba) he has in his body a specified controlled drug and the proportion of it in his blood or urine at that time exceeds the specified limit for that drug, or”.
 - (3) In subsection (3), after “(1)(b)” insert “, (ba)”.
- 3 (1) Section 6C (preliminary drug test) is amended as follows.
 - (2) In subsection (1)(b), for “in his body.” substitute “in his body and if so—
 - (i) whether it is a specified controlled drug;
 - (ii) if it is, whether the proportion of it in the person’s blood or urine is likely to exceed the specified limit for that drug.”
 - (3) After subsection (2) insert—

“(3) Up to three preliminary drug tests may be administered.”
- 4 In section 6D (arrest), in subsection (1), for the words after “preliminary breath test” substitute “or preliminary drug test the constable reasonably suspects that—
 - (a) the proportion of alcohol in the person’s breath or blood exceeds the prescribed limit, or
 - (b) the person has a specified controlled drug in his body and the proportion of it in the person’s blood or urine exceeds the specified limit for that drug.”
- 5 (1) Section 7 (provision of specimens for analysis) is amended as follows.
 - (2) After subsection (1) insert—

“(1A) In the course of an investigation into whether a person has committed an offence under section 5A of this Act a constable may, subject to subsections (3) to (7) of this section and section 9 of this Act, require the person to provide a specimen of blood or urine for a laboratory test.”
 - (3) In subsection (3)(c), for “or 4” substitute “, 4 or 5A”.
- 6 (1) Section 10 (detention of persons affected by alcohol or a drug) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In subsection (1), for “or 5” substitute “, 5 or 5A”.
- (3) In subsection (2), for the words from “whilst his ability” to the end substitute “whilst—
- (a) the person’s ability to drive properly is impaired,
 - (b) the proportion of alcohol in the person’s breath, blood or urine exceeds the prescribed limit, or
 - (c) the proportion of a specified controlled drug in the person’s blood or urine exceeds the specified limit for that drug.”
- 7 In section 192 (general interpretation of Act), in the definition of “prescribed” in subsection (1), before “means” insert “(except in section 5A)”.
- 8 The amendments in paragraphs 3 to 6 do not affect the application of sections 83 and 96 of the Railways and Transport Safety Act 2003.

Road Traffic Offenders Act 1988 (c. 53)

- 9 The Road Traffic Offenders Act 1988 is amended as follows.
- 10 (1) Section 15 (use of specimens in proceedings for an offence under section 3A, 4 or 5 of the Road Traffic Act) is amended as follows.
- (2) In the sidenote, for “section 4 or 5” substitute “any of sections 3A to 5A”.
- (3) In subsection (1), for “section 3A, 4 or 5” substitute “any of sections 3A to 5A”.
- (4) In subsection (2), for the words from “and, subject to” to the end substitute “and—
- (a) it is to be assumed, subject to subsection (3) below, that the proportion of alcohol in the accused’s breath, blood or urine at the time of the alleged offence was not less than in the specimen;
 - (b) it is to be assumed, subject to subsection (3A) below, that the proportion of a drug in the accused’s blood or urine at the time of the alleged offence was not less than in the specimen.”
- (5) In subsection (3), for “That assumption” substitute “The assumption in subsection (2) (a) above”.
- (6) After subsection (3) insert—
- “(3A) The assumption in subsection (2)(b) above is not to be made if the accused proves—
- (a) that he took the drug before he provided the specimen or had the specimen taken from him and—
 - (i) in relation to an offence under section 3A, after the time of the alleged offence, and
 - (ii) otherwise, after he had ceased to drive, attempt to drive or be in charge of a vehicle on a road or other public place, and
 - (b) that had he not done so the proportion of the drug in his blood or urine—
 - (i) in the case of a specified controlled drug, would not have exceeded the specified limit for that drug, and
 - (ii) if it is alleged that he was unfit to drive through drugs, would not have been such as to impair his ability to drive properly.”

Status: This is the original version (as it was originally enacted).

- 11 (1) Section 24 (alternative verdicts: general) is amended as follows.
- (2) In the table in subsection (1), after the entry relating to section 5(1)(a) of the Road Traffic Act 1988 insert—

“Section 5A(1)(a) and (2) (driving or attempting to drive with concentration of specified controlled drug above specified limit)”	Section 5A(1)(b) and (2) (being in charge of a vehicle with concentration of specified controlled drug above specified limit)”.
---	---

- (3) In subsection (3), for “or 5(1)(a)” substitute “, 5(1)(a) or 5A(1)(a) and (2)”.
- 12 In section 34 (disqualification for certain offences), in subsection (3), after paragraph (b) insert—
- “(ba) section 5A(1)(a) and (2) (driving or attempting to drive with concentration of specified controlled drug above specified limit).”
- 13 In Schedule 1 (offences to which sections 1, 6, 11 and 12(1) apply), in the table, after the entry beginning “RTA section 5” insert—

“RTA section 5A	Driving or attempting to drive, or being in charge of a motor vehicle, with concentration of specified controlled drug above specified limit.	Sections 11 and 12(1) of this Act.”
-----------------	---	-------------------------------------

- 14 The amendments in paragraph 10 do not affect the application of sections 83 and 96 of the Railways and Transport Safety Act 2003.

Football Spectators Act 1989 (c. 37)

- 15 In Schedule 1 to the Football Spectators Act 1989 (relevant offences for purposes of making banning order), in paragraph 1(l)—
- (a) for “or 5” substitute “, 5 or 5A”;
- (b) after “limit” insert “or with a concentration of a specified controlled drug above the specified limit”.

Crime (International Co-operation) Act 2003 (c. 32)

- 16 In Schedule 3 to the Crime (International Co-operation) Act 2003 (offences notifiable to authority of member State where offender normally resident), in Part 1 (offences where no minimum period of disqualification necessary), after paragraph (f) of paragraph 3 insert—
- “(fa) section 5A (driving, or being in charge, of a motor vehicle with concentration of specified controlled drug above specified limit).”

Armed Forces Act 2006 (c. 52)

- 17 In Schedule 1 to the Armed Forces Act 2006 (criminal conduct offences that may be dealt with at a summary hearing), in Part 1 (offences that may be dealt with without permission), after paragraph 9 insert—
- “9A An offence under section 5A of that Act (driving a vehicle with concentration of specified controlled drug above specified limit).”