

## SCHEDULES

### SCHEDULE 11

#### ENFORCEMENT OF TRANSPORT LEGISLATION

##### PART 1

###### DRINK AND DRUG DRIVING OFFENCES

###### *Removal of “statutory option” to have breath specimen replaced: road and rail transport*

- 1 (1) In section 8 of the Road Traffic Act 1988 (choice of specimens of breath), omit subsections (2), (2A), (3) and (4).
- (2) The amendments in sub-paragraphs (3) to (5) are made in consequence of sub-paragraph (1).
- (3) In the Road Traffic Act 1988—
  - (a) for the heading of section 8 substitute “Breath specimen showing higher alcohol level to be disregarded”;
  - (b) in section 8(1), omit “Subject to subsection (2) below,”;
  - (c) in section 195(3), omit “8(3),”;
  - (d) in section 195(4), omit “8(3),”;
  - (e) in section 195(4A), omit “8(3) or”.
- (4) In the Serious Organised Crime and Police Act 2005, omit section 154(7).
- (5) In the Scotland Act 2012, omit section 20(2) to (4).
- 2 (1) In Chapter 1 of Part 2 of the Transport and Works Act 1992 (safety of railways etc: offences involving drink or drugs), in section 32 (choice of specimens of breath), omit subsections (2) to (4).
- (2) In consequence of sub-paragraph (1), for the heading of that section substitute “Breath specimen showing higher alcohol level to be disregarded”.

###### *No need for preliminary breath test before evidential breath test: road transport*

- 3 (1) The Road Traffic Act 1988 is amended as follows.
- (2) In section 7 (provision of specimens for analysis), for subsection (2) substitute—
  - “(2) A constable may make a requirement under this section to provide specimens of breath only if—
    - (a) the requirement is made at a police station or a hospital,
    - (b) the requirement is imposed in circumstances where section 6(5) of this Act applies, or

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(c) the constable is in uniform.”

(3) Omit subsections (2A) and (2B).

(4) After subsection (2C) insert—

“(2CA) For the purposes of subsection (2C) “a relevant breath test” is a procedure involving the provision by the person concerned of a specimen of breath to be used for the purpose of obtaining an indication whether the proportion of alcohol in his breath or blood is likely to exceed the prescribed limit.”

(5) After subsection (5) insert—

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

- (a) the person fails to provide a specimen of breath when required to do so in pursuance of this section, and
- (b) the constable reasonably suspects that the person has alcohol in his body.”

*Removing restriction that evidential breath test must be taken at police station: rail transport*

4 (1) In Chapter 1 of Part 2 of the Transport and Works Act 1992 (safety of railways etc: offences involving drink or drugs), section 31 (provision of specimens for analysis) is amended as follows.

(2) For subsection (2) substitute—

“(2) A constable may make a requirement under this section to provide specimens of breath only if—

- (a) the requirement is made at a police station or a hospital, or
- (b) the constable is in uniform.”

(3) After subsection (7) insert—

“(7A) A constable may arrest a person without warrant if—

- (a) the person fails to provide a specimen of breath when required to do so in pursuance of this section, and
- (b) the constable reasonably suspects that the person has alcohol in his body.”

*Health care professionals advising whether condition is due to drugs: road and rail transport*

5 In section 7 of the Road Traffic Act 1988 (provision of specimens for analysis), in subsection (3)(c) (medical advice that person’s condition might be due to drugs), after “advised by a medical practitioner” insert “or a registered health care professional”.

6 In section 31 of the Transport and Works Act 1992 (provision of specimens for analysis)—

- (a) in subsection (4)(c) (medical advice that person’s condition might be due to drugs), after “advised by a medical practitioner” insert “or a registered health care professional”;
- (b) omit subsections (9A), (9B) and (9C).

*Further extension of role of health care professionals: road and rail transport*

- 7 The Road Traffic Act 1988 is amended in accordance with paragraphs 8 and 9.
- 8 (1) Section 7A (specimens of blood taken from persons incapable of consenting) is amended as follows.
- (2) In subsections (1) and (2)(a), for “a medical practitioner” substitute “a medical or health care practitioner”.
- (3) In subsection (2)(b), for “a medical practitioner other than a police medical practitioner” substitute “a practitioner other than a police medical or health care practitioner”.
- (4) In subsection (2)(b)(i), for “to made to a police medical practitioner” substitute “to be made to a police medical or health care practitioner”.
- (5) In subsection (2)(b)(ii), omit “medical”.
- (6) In subsection (3), for “a medical practitioner” substitute “a medical or health care practitioner”.
- (7) For subsection (7) substitute—
- “(7) In this section—
- “medical or health care practitioner” means a medical practitioner or a registered health care professional;
- “police medical or health care practitioner” means a medical practitioner, or a registered health care professional, who is engaged under any agreement to provide medical or health care services for purposes connected with the activities of a police force.”
- 9 In section 11 (interpretation), in subsection (4) (providing a specimen of blood), omit “by a medical practitioner or, if it is taken in a police station,”.
- 10 In consequence of paragraphs 8 and 9, in section 15 of the Road Traffic Offenders Act 1988 (use of specimens in proceedings for certain offences under the Road Traffic Act), in subsection (4) (circumstances in which specimen of blood is to be disregarded)—
- (a) in paragraph (a), for the words from “and either” to the end of the paragraph substitute “by a medical practitioner or a registered health care professional”;
- (b) in paragraph (b), after “medical practitioner” insert “or a registered health care professional”.
- 11 The Transport and Works Act 1992 is amended in accordance with paragraphs 12 and 13.
- 12 (1) Section 31A (specimens of blood taken from persons incapable of consenting) is amended as follows.
- (2) In subsections (1) and (2)(a), for “a medical practitioner” substitute “a medical or health care practitioner”.
- (3) In subsection (2)(b), for “a medical practitioner other than a police medical practitioner” substitute “a practitioner other than a police medical or health care practitioner”.

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- (4) In subsection (2)(b)(i), for “to made to a police medical practitioner” substitute “to be made to a police medical or health care practitioner”.
  - (5) In subsection (2)(b)(ii), omit “medical”.
  - (6) In subsection (3), for “a medical practitioner” substitute “a medical or health care practitioner”.
  - (7) For subsection (7) substitute—
    - “(7) In this section—
      - “medical or health care practitioner” means a medical practitioner or a registered health care professional;
      - “police medical or health care practitioner” means a medical practitioner, or a registered health care professional, who is engaged under any agreement to provide medical or health care services for purposes connected with the activities of a police force.”
- 13 In section 38 (interpretation of Chapter 1), in subsection (5)(b) (providing a specimen of blood), omit “by a medical practitioner or, if it is taken in a police station,”.

*Application of Road Traffic Act provisions in shipping regime*

- 14 (1) In Part 4 of the Railways and Transport Safety Act 2003 (shipping: alcohol and drugs), section 83 (specimens, etc) is amended as follows.
  - (2) After subsection (1) (but before the table) insert—
    - “(1A) The references in the table to provisions of the Road Traffic Act 1988 or the Road Traffic Offenders Act 1988 are, subject to any contrary intention expressed in this Part or in any other enactment, references to those provisions as amended from time to time.”
  - (3) The table is amended as follows.
  - (4) In the entry for sections 6A to 6E of the Road Traffic Act 1988, in the third column, at the end insert—

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“In section 6C, the following shall be disregarded—

- (a) in subsection (1)(b), the words following “in his body”;
- (b) subsection (3).

In section 6D, subsection (1)(b) shall be disregarded.”

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- (5) In the entry for section 7 of the Road Traffic Act 1988, in the third column—
  - (a) after the first sentence insert—

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“Subsection (1A) shall be disregarded.

In subsection (2)(b), the reference to the circumstances in which section 6(5) of the 1988 Act applies shall be treated as a reference to the circumstances in which the following provision of this table applies: paragraph (c) of the modifications specified for section 6 of the 1988 Act.”;

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- (b) in the last sentence, for “or 4” substitute “, 4 or 5A”.

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- (6) In the entry for section 8 of the Road Traffic Act 1988, in the second column, for “Choice of specimen of breath” substitute “Breath specimen showing higher alcohol level to be disregarded”.
- (7) In the entry for section 10 of the Road Traffic Act 1988, in the third column—
- (a) in paragraph (b), for “or 5” substitute “, 5 or 5A”;
  - (b) before the last sentence insert—

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“In subsection (2), paragraph (c) shall be disregarded.”

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- (8) In the entry for section 15 of the Road Traffic Offenders Act 1988, in the third column—
- (a) in the first sentence, for “section 3A, 4 or 5” substitute “any of sections 3A to 5A”;
  - (b) after the first sentence insert—

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“Subsection (2)(b) shall be disregarded.”;

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- (c) after the last sentence insert—

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“Subsection (3A) shall be disregarded.”

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- 15 In Schedule 22 to the Crime and Courts Act 2013 (drugs and driving: minor and consequential amendments), omit paragraphs 8 and 14.

*Application of Road Traffic Act provisions in aviation regime*

- 16 (1) In Part 5 of the Railways and Transport Safety Act 2003 (aviation: alcohol and drugs), section 96 (specimens, etc) is amended as follows.
- (2) After subsection (1) (but before the table) insert—
- “(1A) The references in the table to provisions of the Road Traffic Act 1988 or the Road Traffic Offenders Act 1988 are, subject to any contrary intention expressed in this Part or in any other enactment, references to those provisions as amended from time to time.”
- (3) The table is amended as follows.
- (4) In the entry for sections 6A to 6E of the Road Traffic Act 1988, in the third column, at the end insert—

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“In section 6C, the following shall be disregarded—

- (a) in subsection (1)(b), the words following “in his body”;
- (b) subsection (3).

In section 6D, subsection (1)(b) shall be disregarded.”

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- (5) In the entry for section 7 of the Road Traffic Act 1988, in the third column—
- (a) after the first sentence insert—

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“Subsection (1A) shall be disregarded.

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In subsection (2)(b), the reference to the circumstances in which section 6(5) of the 1988 Act applies shall be treated as a reference to the circumstances in which the following provisions of this table apply: paragraphs (c) and (d) of the modifications specified for section 6 of the 1988 Act.”;

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(b) in the last sentence, for “or 4” substitute “, 4 or 5A”.

(6) In the entry for section 8 of the Road Traffic Act 1988—

(a) in the second column, for “Choice of specimen of breath” substitute “Breath specimen showing higher alcohol level to be disregarded”;

(b) omit the words in the third column.

(7) In the entry for section 10 of the Road Traffic Act 1988, in the third column—

(a) in paragraph (b), for “or 5” substitute “, 5 or 5A”;

(b) before the last sentence insert—

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“In subsection (2), paragraph (c) shall be disregarded.”

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(8) In the entry for section 15 of the Road Traffic Offenders Act 1988, in the third column—

(a) in the first sentence, for “section 3A, 4 or 5” substitute “any of sections 3A to 5A”;

(b) after the first sentence insert—

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“Subsection (2)(b) shall be disregarded.”;

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(c) after the last sentence insert—

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“Subsection (3A) shall be disregarded.”

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