



# Transport and Works Act 1992

## 1992 CHAPTER 42

### PART II

#### SAFETY OF RAILWAYS ETC

### CHAPTER I

#### OFFENCES INVOLVING DRINK OR DRUGS

##### *Miscellaneous and supplementary*

#### **37 Special provision for Scotland**

- (1) Section 30(3) and (4) above shall not extend to Scotland, and nothing in those subsections shall affect any rule of law in Scotland concerning the right of a constable to enter any premises for any purpose.
- (2) In proceedings for any offence under section 27 above in Scotland—
  - (a) a document produced in evidence on behalf of the prosecution in pursuance of section 35 above and, where the person by whom the document was signed is called as a witness, the evidence of that person, shall be sufficient evidence of the facts stated in the document, and
  - (b) a written execution purporting to be signed by the person who handed to or served on the accused or the prosecutor a copy document or notice under section 35 above, together with, where appropriate, a post office receipt for the relevant registered or recorded delivery letter, shall be sufficient evidence of the handing or service of the copy document or notice.

#### **38 Interpretation of Chapter I**

- (1) In this Chapter—

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*Status: This is the original version (as it was originally enacted).*

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“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.

- (2) In this Chapter “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) For the purposes of this Chapter, it is immaterial whether a person who works on a transport system does so in the course of his employment, under a contract for services, voluntarily or otherwise.
- (4) For the purposes of this Chapter, 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.
- (5) For the purposes of this Chapter, 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.
- (6) The power to make regulations under subsection (2) above shall be exercisable by statutory instrument; and no such regulations shall be made unless a draft of the instrument containing them has been laid before, and approved by a resolution of, each House of Parliament.

### **39 Amendment of scope of offences involving drink or drugs under Road Traffic Act 1988**

The following section shall be inserted in the Road Traffic Act 1988 after section 192—

#### **“192A Tramcars and other guided vehicles: drink and drugs**

- (1) Sections 4 to 11 of this Act shall not apply (to the extent that apart from this subsection they would) to vehicles on any transport system to which Chapter I of Part II of the Transport and Works Act 1992 (offences involving drink or drugs on railways, tramways and certain other guided transport systems) applies.
- (2) Subject to subsection (1) above, the Secretary of State may by regulations provide that sections 4 to 11 of this Act shall apply to vehicles on a system of guided transport specified in the regulations with such modifications as he considers necessary or expedient.

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

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(3) Regulations under subsection (2) above may make different provision for different cases.

(4) In this section—

“guided transport” means transport by vehicles guided by means external to the vehicles (whether or not the vehicles are also capable of being operated in some other way), and

“vehicle” includes mobile traction unit.”

#### **40 Consequential amendment**

In section 17 of the Railway Regulation Act 1842 (punishment of persons employed on railways guilty of misconduct) the words “who shall be found drunk while so employed upon the said railway” shall be omitted.