



Transport and Works Act 1992

1992 CHAPTER 42

PART II

SAFETY OF RAILWAYS ETC

CHAPTER I

OFFENCES INVOLVING DRINK OR DRUGS

Commencement Information

II [Pt. II Ch. 1](#) (ss. 26-40) wholly in force at 7.12.1992 see [s. 70](#) and [S.I. 1992/2043](#), [art. 2\(a\)](#)

Preliminary

26 Transport systems to which Chapter I applies.

- (1) This Chapter applies to transport systems of any of the following kinds—
 - (a) a railway;
 - (b) a tramway;
 - (c) a system which uses another mode of guided transport and is specified for the purposes of this Chapter by an order made by the Secretary of State.
- (2) This Chapter shall not apply to a transport system unless it is used, or is intended to be used, wholly or partly for the carriage of members of the public.
- (3) The power to make orders under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, CHAPTER I. (See end of Document for details)

Commencement Information

I2 [Pt. II ch. 1](#) (ss. 26-40) wholly in force at 7. 12. 1992 see [s. 70](#) and [S.I. 1992/2043](#), [art. 2\(a\)](#).

Principal offences

27 Offences involving drink or drugs on transport systems.

- (1) If a person works on a transport system to which this Chapter applies—
 - (a) as a driver, guard, conductor or signaller or in any other capacity in which he can control or affect the movement of a vehicle, or
 - (b) in a maintenance capacity or as a supervisor of, or look-out for, persons working in a maintenance capacity,
 when he is unfit to carry out that work through drink or drugs, he shall be guilty of an offence.
- (2) If a person works on a transport system to which this Chapter applies—
 - (a) as a driver, guard, conductor or signaller or in any other capacity in which he can control or affect the movement of a vehicle, or
 - (b) in a maintenance capacity or as a supervisor of, or look-out for, persons working in a maintenance capacity,
 after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit, he shall be guilty of an offence.
- (3) For the purposes of this section, a person works on a transport system in a maintenance capacity if his work on the system involves maintenance, repair or alteration of—
 - (a) the permanent way or other means of guiding or supporting vehicles,
 - (b) signals or any other means of controlling the movement of vehicles, or
 - (c) any means of supplying electricity to vehicles or to the means of guiding or supporting vehicles,
 or involves coupling or uncoupling vehicles or checking that they are working properly before they are used on any occasion.
- (4) For the purposes of subsection (1) above, a person shall be taken to be unfit to carry out any work if his ability to carry out that work properly is for the time being impaired.

Commencement Information

I3 [Pt. II Ch. 1](#) (ss. 26-40) wholly in force at 7. 12. 1992 see [s. 70](#) and [S.I. 1992/2043](#), [art. 2\(a\)](#).

28 Offences by operators of transport systems.

- (1) If a person commits an offence under section 27 above, the responsible operator shall also be guilty of an offence.
- (2) In this section “the responsible operator” means—
 - (a) in a case where the transport system on which the offence under section 27 above is committed has only one operator, that operator;

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- (b) in a case where the transport system on which the offence under section 27 above is committed has more than one operator, whichever of them is responsible for the work giving rise to the offence.
- (3) No offence is committed under subsection (1) above if the responsible operator has exercised all due diligence to prevent the commission on the transport system of any offence under section 27 above.
- (4) If a person commits an offence under section 27 above in the course of his employment with a person other than the responsible operator, his employer shall (without prejudice to any liability of that operator under subsection (1) above) also be guilty of an offence.
- (5) No offence is committed under subsection (4) above if the employer has exercised all due diligence to prevent the commission on the transport system by any of his employees of any offence under section 27 above.

Commencement Information

I4 Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and S.I. 1992/2043, art. 2(a).

Police powers etc

29 Breath tests.

- (1) Where a constable in uniform has reasonable cause to suspect—
 - (a) that a person working on a transport system to which this Chapter applies in any capacity mentioned in section 27(1) and (2) above has alcohol in his body, or
 - (b) that a person has been working on a transport system to which this Chapter applies in any capacity mentioned in section 27(1) and (2) above with alcohol in his body and still has alcohol in his body,he may require that person to provide a specimen of breath for a breath test.
- (2) Where an accident or dangerous incident occurs on a transport system to which this Chapter applies, a constable in uniform may require a person to provide a specimen of breath for a breath test if he has reasonable cause to suspect that—
 - (a) at the time of the accident or incident that person was working on the transport system in a capacity mentioned in section 27(1) and (2) above, and
 - (b) an act or omission of that person while he was so working may have been a cause of the accident or incident.
- (3) In subsection (2) above “dangerous incident” means an incident which in the constable’s opinion involved a danger of death or personal injury.
- (4) 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.
- (5) A person who, without reasonable excuse, fails to provide a specimen of breath when required to do so in pursuance of this section shall be guilty of an offence.

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, CHAPTER I. (See end of Document for details)

Commencement Information

I5 Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and [S.I. 1992/2043](#), [art. 2\(a\)](#).

30 Powers of arrest and entry.

^{F1}(1)

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

- (a) as a result of a breath test under section 29 above 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 section 29 above and the constable has reasonable cause to suspect that he has alcohol in his body.

^{F2}(3)

(4) A constable may, for the purpose of—

- (a) requiring a person to provide a specimen of breath under section 29(2) above in the case of an accident which the constable has reasonable cause to suspect involved the death of, or injury to, another person, or
 - (b) arresting a person in such a case under subsection (2) above,
- enter (if need be by force) any place where that person is or where the constable, with reasonable cause, suspects him to be.

Textual Amendments

F1 S. 30(1) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 7 para. 29, [Sch. 17 Pt. 2](#); [S.I. 2005/3495](#), art. 2(1)(m)(u)

F2 S. 30(3) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), Sch. 7 para. 29, [Sch. 17 Pt. 2](#); [S.I. 2005/3495](#), art. 2(1)(m)(u)

Commencement Information

I6 Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and [S.I. 1992/2043](#), [art. 2\(a\)](#).

31 Provision of specimens for analysis.

(1) In the course of an investigation into whether a person has committed an offence under section 27 above, a constable may 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.

[^{F3}(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.]

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, CHAPTER I. (See end of Document for details)

- (3) A requirement under this section to provide a specimen of blood or urine shall only be made at a police station or at a hospital; and it shall not be made at a police station unless subsection (4) below applies.
- (4) This subsection applies if—
- (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,
 - (b) at the time the requirement is made, either a device (or reliable device) of the type mentioned in subsection (1)(a) above is not available at the police station or it is for any other reason not practicable to use such a device there,^{F4} . . .
 - [^{F5}(bb) a device of the type mentioned in subsection (1)(a) above has been used at the police station but the constable who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned, or]
 - (c) the suspected offence is one under section 27(1) above and the constable making the requirement has been advised by a medical practitioner [^{F6}or a registered health care professional] that the condition of the person required to provide the specimen might be due to a drug.
- (5) A person may be required to provide a specimen of blood or urine in pursuance of this section notwithstanding that he has already provided or been required to provide two specimens of breath.
- (6) 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 [^{F7}and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to subsection (6A)) by the constable making the requirement] .
- [^{F8}(6A) Where a constable decides for the purposes of subsection (6) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if—
- (a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or
 - (b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner,
- and, where by virtue of this subsection there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead.]
- (7) 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.
- [^{F9}(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.]

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

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

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, CHAPTER I. (See end of Document for details)

- ^{F10}(9A)
- ^{F11}(9B)
- ^{F12}(9C)

Textual Amendments

- F3** S. 31(2) substituted (10.4.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 4\(2\)](#); [S.I. 2015/994](#), art. 4
- F4** Word in s. 31(4)(b) repealed (4.7.1996) (but with effect (1.4.1997) as mentioned in s. 63(3)) by [1996 c. 25](#), ss. 63(2)(3), 80, [Sch. 5 para. 2](#) Table 5 (with s. 78(1)); [S.I. 1997/682](#), art. 2
- F5** S. 31(4)(bb) inserted (4.7.1996) (but with effect (1.4.1997) as mentioned in s. 63(3)) by [1996 c. 25](#), ss. 63(2)(3) (with s. 78(1)); [S.I. 1997/682](#), art. 2
- F6** Words in s. 31(4)(c) inserted (10.4.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 6\(a\)](#); [S.I. 2015/994](#), art. 4
- F7** Words in s. 31(6) substituted (1.4.2003) by [Police Reform Act 2002 \(c. 30\)](#), ss. 58(1), 108(2); [S.I. 2003/808](#), art. 2(e)
- F8** S. 31(6A) inserted (1.4.2003) by [Police Reform Act 2002 \(c. 30\)](#), ss. 58(2), 108(2); [S.I. 2003/808](#), art. 2(e)
- F9** S. 31(7A) inserted (10.4.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 4\(3\)](#); [S.I. 2015/994](#), art. 4
- F10** S. 31(9A) omitted (10.4.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 6\(b\)](#); [S.I. 2015/994](#), art. 4
- F11** S. 31(9B) omitted (10.4.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 6\(b\)](#); [S.I. 2015/994](#), art. 4
- F12** S. 31(9C) omitted (10.4.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 6\(b\)](#); [S.I. 2015/994](#), art. 4

Commencement Information

- I7** Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and [S.I. 1992/2043](#), art. 2(a).

[^{F13}31A Specimens of blood taken from persons incapable of consenting

- (1) A constable may make a request to [^{F14}a medical or health care practitioner] for him to take a specimen of blood from a person (“the person concerned”) irrespective of whether that person consents if—
- (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under section 33) be entitled under section 31 to require the provision of a specimen of blood for a laboratory test;
 - (b) it appears to that constable that that person has been involved in—
 - (i) an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter; or
 - (ii) a dangerous incident (within the meaning given by section 29(3)) that constitutes or is comprised in that matter or those circumstances;
 - (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
 - (d) it appears to that constable that that person’s incapacity is attributable to medical reasons.

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, CHAPTER I. (See end of Document for details)

- (2) A request under this section—
- (a) shall not be made to [^{F15}a medical or health care practitioner] who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
 - (b) shall not be made to [^{F16}a practitioner other than a police medical or health care practitioner] unless—
 - (i) it is not reasonably practicable for the request [^{F17}to be made to a police medical or health care practitioner] ; or
 - (ii) it is not reasonably practicable for such a ^{F18}... practitioner (assuming him to be willing to do so) to take the specimen.
- (3) It shall be lawful for [^{F19}a medical or health care practitioner] to whom a request is made under this section, if he thinks fit—
- (a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and
 - (b) to provide the sample to a constable.
- (4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken—
- (a) has been informed that it was taken; and
 - (b) has been required by a constable to give his permission for a laboratory test of the specimen; and
 - (c) has given his permission.
- (5) A constable must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission, may render him liable to prosecution.
- (6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.
- [^{F20}(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.]]

Textual Amendments

- F13** S. 31A inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\)](#), s. 58(4); S.I. 2002/2306, art. 2(d)(v)
- F14** Words in s. 31A(1) substituted (10.4.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 12\(2\)](#); S.I. 2015/994, art. 4
- F15** Words in s. 31A(2)(a) substituted (10.4.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 12\(2\)](#); S.I. 2015/994, art. 4
- F16** Words in s. 31A(2)(b) substituted (10.4.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 12\(3\)](#); S.I. 2015/994, art. 4
- F17** Words in s. 31A(2)(b)(i) substituted (10.4.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 12\(4\)](#); S.I. 2015/994, art. 4
- F18** Word in s. 31A(2)(b)(ii) omitted (10.4.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 11 para. 12\(5\)](#); S.I. 2015/994, art. 4

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, CHAPTER I. (See end of Document for details)

- F19** Words in s. 31A(3) substituted (10.4.2015) by [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 11 para. 12\(6\)](#); [S.I. 2015/994, art. 4](#)
- F20** S. 31A(7) substituted (10.4.2015) by [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 11 para. 12\(7\)](#); [S.I. 2015/994, art. 4](#)

32 ^[F21]**Breath specimen showing higher alcohol level to be disregarded]**

- (1) Of any two specimens of breath provided by a person in pursuance of section 31 above, the one with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

^{F22}(2)

^{F22}(3)

^{F22}(4)

Textual Amendments

- F21** [S. 32 heading](#) substituted (10.4.2015) by [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 11 para. 2\(2\)](#); [S.I. 2015/994, art. 4](#)
- F22** [S. 32\(2\)-\(4\)](#) omitted (10.4.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 11 para. 2\(1\)](#); [S.I. 2015/994, art. 4](#)

Commencement Information

- I8** Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and [S.I. 1992/2043, art. 2\(a\)](#).

33 **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.

^[F23](1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under section 31A of this Act and he shall not be required to give his permission for a laboratory test of a specimen taken under that section unless the medical practitioner in immediate charge of his case—

- (a) has been notified of the proposal to take the specimen or to make the requirement; and
- (b) has not objected on the ground specified in subsection (2).

- (2) The ground on which the medical practitioner may object is—

- (a) in a case falling within subsection (1), that the requirement or the provision of the specimen or (if one is required) the warning required by section 31(9) of this Act would be prejudicial to the proper care and treatment of the patient; and

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- (b) in a case falling within subsection (1A), that the taking of the specimen, the requirement or the warning required by section 31A(5) of this Act would be so prejudicial.]
- (3) A person shall not be arrested under section 30(2) above while he is at a hospital as a patient.

Textual Amendments

F23 S. 33(1A)(2) substituted (1.10.2002) for s. 33(2) by [Police Reform Act 2002 \(c. 30\), s. 58\(5\)](#); [S.I. 2002/2360, art. 2\(d\)\(v\)](#)

Commencement Information

I9 Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and [S.I. 1992/2043, art. 2\(a\)](#).

Evidence in proceedings for offences under section 27

34 Use of specimens in proceedings.

- (1) In proceedings for any offence under section 27 above—
 - (a) evidence of the proportion of alcohol or any drug in a specimen of breath, blood or urine provided by [^{F24}or taken from] the accused shall be taken into account, and
 - (b) it shall be assumed 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.
 - (2) That assumption shall not be made if the accused proves—
 - (a) that he consumed alcohol before he provided the specimen [^{F25}or had it taken from him] and after he had stopped work on the occasion of the alleged offence, and
 - (b) that, had he not done so, the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit and, where the offence alleged is an offence of being unfit to carry out the work in question through drink, would not have been such as to impair his ability to carry out that work properly.
 - (3) Where, at the time a specimen of blood or urine was provided by the accused, he asked to be provided with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen shall not be admissible in the proceedings on behalf of the prosecution unless—
 - (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen provided by the accused was divided at the time it was provided, and
 - (b) the other part was supplied to the accused.
- [^{F26}(3A) Where a specimen of blood was taken from the accused under section 31A, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution in the proceedings unless—
- (a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and

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- (b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with.]

Textual Amendments

- F24** Words in s. 34(1)(a) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 58(6); S.I. 2002/2306, art. 2(d)(v)
- F25** Words in s. 34(2)(a) inserted (1.10.2002) by Police Reform Act 2002 (c. 30), s. 58(7); S.I. 2002/2306, art. 2(d)(v)
- F26** S. 34(3A) inserted (1.10.2002) by virtue of Police Reform Act 2002 (c. 30), s. 58(8); S.I. 2002/2306, art. 2(d)(v)

Commencement Information

- I10** Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and S.I. 1992/2043, art. 2(a).

35 Documentary evidence as to specimens.

- (1) In proceedings for any offence under section 27 above, evidence of the proportion of alcohol in a specimen of breath may be given by the production of a document (or documents) purporting to be—
 - (a) a statement automatically produced by the device by which the proportion of alcohol in the specimen was measured, and
 - (b) a certificate signed by a constable (which may but need not be contained in the same document as the statement) that the specimen was provided by the accused at the date and time shown in the statement.
- (2) In such proceedings, evidence of the proportion of alcohol or a drug in a specimen of blood or urine may be given by the production of a document purporting to be a certificate signed by an authorised analyst identifying the specimen and stating the proportion of alcohol or drug found in it.
- (3) In such proceedings, evidence that a specimen of blood was taken from the accused with his consent by a medical practitioner [^{F27}or a registered health care professional] may be given by the production of a document purporting to be a certificate to that effect signed by the practitioner [^{F27}or a registered health care professional] .
- (4) A document such as is mentioned in subsection (1) above shall be admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it either was handed to the accused when the document was produced or was served on him not later than seven days before the hearing.
- (5) A document such as is mentioned in subsection (2) or (3) above shall be admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it was served on the accused not later than seven days before the hearing.
- (6) A document purporting to be a certificate (or so much of a document as purports to be a certificate) shall not be admissible in evidence on behalf of the prosecution in pursuance of this section if the accused, not later than three days before the hearing or within such further time as the court may in special circumstances allow, has served notice on the prosecutor requiring the attendance at the hearing of the person by whom the document purports to be signed.

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, CHAPTER I. (See end of Document for details)

- (7) In this section “served” means [^{F28}, in relation to proceedings in England and Wales, served in accordance with Criminal Procedure Rules or, otherwise,] served personally or sent by registered post or recorded delivery service.
- (8) In subsection (2) above “authorised analyst” means—
- (a) any person possessing the qualifications prescribed by regulations made under section 76 of the ^{M1}Food Act 1984 or section 27 of the ^{M2}Food and Drugs (Scotland) Act 1956 as qualifying persons for appointment as public analysts under those Acts, or
 - (b) any other person authorised by the Secretary of State to make analyses for the purposes of this section.

Textual Amendments

F27 Words in s. 35(3) inserted (1.4.2003) by virtue of [Police Reform Act 2002 \(c. 30\)](#), **ss. 58(9)**, 108(2); [S.I. 2003/808](#), **art. 2(e)**

F28 Words in s. 35(7) inserted (28.6.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(3), **Sch. 1 para. 12**

Commencement Information

I11 Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and [S.I. 1992/2043](#), **art. 2(a)**.

Marginal Citations

M1 [1984 c. 30](#).

M2 [1956 c. 30](#).

Penalties

36 Penalties.

- (1) A person guilty of any offence under this Chapter other than an offence under section 29(5) above shall be liable on summary conviction to imprisonment for a term not exceeding six months, to a fine not exceeding level 5 on the standard scale or to both.
- (2) A person guilty of an offence under section 29(5) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I12 [Pt. II Ch. 1](#) (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and [S.I. 1992/2043](#), **art. 2(a)**.

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.

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- (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.

Commencement Information

I13 Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and S.I. 1992/2043, art. 2(a).

38 Interpretation of Chapter I.

- (1) In this Chapter—
- “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.

[^{F29}(2A) In this Chapter “registered health care professional” means a person (other than a medical practitioner) who is—

- (a) a registered nurse; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.

(2B) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(2C) An order under subsection (2A)(b) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

- (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.

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, CHAPTER I. (See end of Document for details)

- (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.
- [^{F30}(5) For the purposes of this Chapter, a person provides a specimen of blood if and only if—
- (a) he consents to the taking of such a specimen from him; and
 - (b) the specimen is taken from him ^{F31}... either by a medical practitioner or by a registered health care professional.]
- (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.

Textual Amendments

- F29** S. 38(2A)-(2C) inserted (1.10.2002 for specified purposes, 1.4.2003 in so far as not already in force) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 58(10)**, 108(2); [S.I. 2002/2306](#), art. 4(d); [S.I. 2003/808](#), art. 2(e)
- F30** S. 38(5) substituted (1.4.2003) by [Police Reform Act 2002 \(c. 30\)](#), **ss. 58(11)**, 108(2); [S.I. 2003/808](#), art. 2(e)
- F31** Words in s. 38(5)(b) omitted (10.4.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 11 para. 13**; [S.I. 2015/994](#), art. 4

Commencement Information

- I14** Pt. II Ch. 1 (ss. 26-40) wholly in force at 7. 12. 1992 see s. 70 and [S.I. 1992/2043](#), art. 2(a).

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

The following section shall be inserted in the ^{M3}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.
- (3) Regulations under subsection (2) above may make different provision for different cases.
- (4) In this section—

Changes to legislation: There are currently no known outstanding effects for the Transport and Works Act 1992, CHAPTER I. (See end of Document for details)

“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.”

Commencement Information

I15 [Pt. II Ch. 1](#) (ss. 26-40) wholly in force at 7. 12. 1992 see [s. 70](#) and [S.I. 1992/2043](#), [art. 2\(a\)](#).

Marginal Citations

M3 [1988 c. 52](#).

F32 40 Consequential amendment.

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Textual Amendments

F32 [S. 40](#) repealed (1.1.2006) by [Serious Organised Crime and Police Act 2005](#) (c. 15), s. 178(8), [Sch. 17 Pt. 2](#); [S.I. 2005/3495](#), art. 2(1)(u)

Changes to legislation:

There are currently no known outstanding effects for the Transport and Works Act 1992,
CHAPTER I.