



# Transport and Works Act 1992

## 1992 CHAPTER 42

### PART II

#### SAFETY OF RAILWAYS ETC

### CHAPTER I

#### OFFENCES INVOLVING DRINK OR DRUGS

##### *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 [<sup>F1</sup>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 [<sup>F2</sup>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

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**Changes to legislation:** *There are currently no known outstanding effects for the Transport and Works Act 1992, Section 34. (See end of Document for details)*

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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.

[<sup>F3</sup>(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
- (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**

- F1** 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\(d\)\(v\)](#)
- F2** 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\(d\)\(v\)](#)
- F3** 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**

- I1** [Pt. II Ch. 1](#) (ss. 26-40) wholly in force at 7. 12. 1992 see [s. 70](#) and [S.I. 1992/2043, art. 2\(a\)](#).

**Changes to legislation:**

There are currently no known outstanding effects for the Transport and Works Act 1992, Section 34.