

*These notes refer to the Deregulation Act 2015 (c.20)
which received Royal Assent on 26 March 2015*

DEREGULATION ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 11: Enforcement of transport legislation

Part 1: Drink and drug driving offences

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

717. The current legal provisions for breath testing drivers involves a preliminary test, usually at the roadside (carried out under section 6A of the RTA), and two evidential breath tests at a police station or elsewhere (for example in a hospital under section 7(2) of the RTA). The type approved equipment used to conduct preliminary tests includes an indication and or display of the result of the test, which can then be judged against the prescribed limit for breath by a police officer deciding whether to arrest a drink-driver.
718. At the police station the suspect is required to provide two evidential breath specimens. There is minimal time delay between the two evidential tests, with the tests being conducted in quick succession. The two specimens of breath are tested separately and a decision on whether or not to charge the driver with an offence under section 5 of the RTA is taken on the basis of the lower result from the two tests at the police station.
719. *Paragraph 3* would allow a police officer to proceed directly to evidential breath testing at the roadside in those instances where a portable evidential breath test device is available. This does not remove the ability to require a preliminary breath test.