

Drug Driving (Assessment of Drug Misuse) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office with the consent of Graham Evans, the Member in charge of the Bill, are published separately as Bill 20 – EN.

Drug Driving (Assessment of Drug Misuse) Bill

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TO

Provide for the assessment of drug dependency or propensity for drug misuse of persons who, in the course of investigations for certain driving offences, have provided blood or urine samples that reveal the presence of certain drugs; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Drug assessments for persons under investigation for drug driving offences

In Part 3 of the Drugs Act 2005 (assessment of misuse of drugs), after section 11 there is inserted—

“11A Initial assessment following testing for presence of Class A drugs under the Road Traffic Act 1988 5

- (1) This section applies to a person (“P”) if—
 - (a) a sample of blood or urine has been taken from P under section 7 or 7A of the Road Traffic Act 1988 in the course of an investigation into whether P has committed an offence under section 3A, 4 or 5A of that Act (causing death by careless driving while under the influence of drink or drugs; driving under the influence of drink or drugs; driving with drugs in body), 10
 - (b) an analysis of the sample reveals that a specified Class A drug may be present in P’s body, and
 - (c) P is aged 18 or over. 15
- (2) A police officer may require P to attend an initial assessment and remain for its duration.
- (3) The Secretary of State may by order made by statutory instrument amend subsection (1)(c) by substituting a different age.

11B Follow-up assessment following initial assessment under section 11A 20

- (1) This section applies if—

- (a) a police officer requires a person (“P”) to attend an initial assessment and remain for its duration under section 11A(2), and
 - (b) P is aged 18 or over.
- (2) The police officer must, at the same time as imposing the requirement under section 11A(2)–
- (a) require P to attend a follow-up assessment and remain for its duration, and
 - (b) inform P that the requirement ceases to have effect if P is informed at the initial assessment that P is no longer required to attend the follow-up assessment.
- (3) The Secretary of State may by order made by statutory instrument amend subsection (1)(b) by substituting a different age.

11C Requirements under sections 11A and 11B: supplemental

- (1) A requirement under section 11A(2) for a person (“P”) to attend an initial assessment and remain for its duration must be imposed by giving notice in writing to P.
- (2) The notice must–
- (a) inform P of the time when, and the place at which, the initial assessment is to take place,
 - (b) inform P of the requirement to attend a follow-up assessment and remain for its duration unless informed otherwise at the initial assessment, and
 - (c) include a warning that P is liable to prosecution for a failure without good cause to attend an initial assessment, and any follow-up assessment that P is required to attend, and remain for its duration.
- (3) If P is given a notice under this section, a police officer or other suitably qualified person may give P a further notice in writing which–
- (a) informs P of any change to the time when, or the place at which, the initial assessment is to take place, and
 - (b) repeats the warning that P is liable to prosecution for a failure without good cause to attend an initial assessment, and any follow-up assessment that P is required to attend, and remain for its duration.
- (4) A notice under this section must be given to P at least 14 days before the date on which P is required by the notice to attend the initial assessment.”

2 Consequential amendments to the Drugs Act 2005

- (1) The Drugs Act 2005 is amended as follows.
- (2) In the heading to section 9, at the end there is inserted “under section 63B of PACE”.
- (3) In the heading to section 10, at the end there is inserted “following initial assessment under section 9”.
- (4) In section 12 (attendance at initial assessment)–

- (a) in subsection (1), after “9(2)” there is inserted “or 11A(2)”;
- (b) in subsection (5), after “10(2)” there is inserted “or 11B(2)”;
- (c) for subsection (6) there is substituted –
- “(6) In this section –
- “the specified time” means – 5
- (a) in the case of a person required to attend an initial assessment by virtue of section 9(2), the time specified in the notice under section 11(5), or, if a further notice specifying a different time has been given to the person under section 11(8), the time specified in that notice; 10
- (b) in the case of a person required to attend an initial assessment by virtue of section 11A(2), the time specified in the notice under section 11C(2)(a) or, if a further notice specifying a different time has been given to the person under section 11C(3), the time specified in that notice; 15
- “the specified place” means –
- (a) in the case of a person required to attend an initial assessment by virtue of section 9(2), the place specified in the notice under section 11(5), or, if a further notice specifying a different place has been given to the person under section 11(8), the place specified in that notice; 20
- (b) in the case of a person required to attend an initial assessment by virtue of section 11A(2), the place specified in the notice under section 11C(2)(a) or, if a further notice specifying a different place has been given to the person under section 11C(3), the place specified in that notice.” 30
- (5) In section 13 (arrangements for follow-up assessment) –
- (a) in subsection (1)(a), after “9(2)” there is inserted “or 11A(2)”;
- (b) in subsection (1)(b), after “10(2)” there is inserted “or 11B(2)”;
- (c) in subsection (3), after “10(2)” there is inserted “or 11B(2)”. 35
- (6) In section 14 (attendance at follow-up assessment), in subsection (1), after “10(2)” there is inserted “or 11B(2)”.
- (7) In section 16 (samples submitted for further analysis) – 40
- (a) after subsection (1) there is inserted –
- “(1A) A requirement imposed on a person by virtue of section 11A(2) or 11B(2) ceases to have effect if at any time before he has fully complied with the requirement –
- (a) a police officer makes arrangements for a further analysis of the sample taken from him as mentioned in section 11A(1)(a), and 45
- (b) the analysis does not reveal that a specified Class A drug was present in the person’s body.”;
- (b) in subsection (2), after “(1)” there is inserted “or (1A)”;

- (c) in subsection (3), after “(1)” there is inserted “or (1A)”;
- (d) in subsection (4) –
- (i) after “9(2)” there is inserted “or 11A(2)”;
- (ii) after “(1)” there is inserted “or (1A)”;
- (e) in subsection (5) – 5
- (i) after “10(2)” there is inserted “or 11B(2)”;
- (ii) after “(1)” there is inserted “or (1A)”.
- (8) In section 17 (relationship with Bail Act 1976 etc) –
- (a) in subsection (1), for “or 10(2)” there is substituted “, 10(2), 11A(2) or 11B(2)”;
- (b) for subsection (6) there is substituted – 10
- “(6) In subsection (1), “the related offence” means –
- (a) in the case of a requirement imposed on a person by virtue of section 9(2) or 10(2), the offence in respect of which the condition specified in subsection (1A) or (2) of section 63B of PACE is satisfied in relation to the taking of the sample mentioned in section 9(1)(a); 15
- (b) in the case of a requirement imposed on a person by virtue of section 11A(2) or 11B(2), the offence under section 3A, 4 or 5A of the Road Traffic Act 1988.” 20
- (9) In section 18 (orders under Part 3 and guidance), in subsection (1), for “or 10(5)” there is substituted “, 10(5), 11A(3) or 11B(3)”.

3 Consequential amendments to the Bail Act 1976

- (1) The Bail Act 1976 is amended as follows.
- (2) In section 3 (general provisions), in subsection (6D) – 25
- (a) in paragraph (a) after “6B(1)” there is inserted “or paragraphs (a) and (b) of paragraph 6B(1A)”;
- (b) in paragraph (b) for “paragraph (b) of that paragraph” there is substituted “paragraph 6B(1)(b) or 6B(1A)(b) of Schedule 1”.
- (3) In Schedule 1 (persons entitled to bail: supplementary provisions), in paragraph 6B (exception applicable to drug users), after sub-paragraph (1) there is inserted – 30
- “(1A) A defendant also falls within this paragraph if –
- (a) he is aged 18 or over;
- (b) a sample taken under section 7 or 7A of the Road Traffic Act 1988 has revealed the presence in his body of a specified Class A drug; and 35
- (c) the condition set out in sub-paragraph (2) below is satisfied or (if the court is considering on a second or subsequent occasion whether or not to grant bail) has been, and continues to be, satisfied.” 40

4 Financial provision

There is to be paid out of money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of money so provided.

5 Commencement, extent and short title

- (1) Sections 1 to 3 come into force on whatever day or days the Secretary of State appoints by order made by statutory instrument, and different days may be appointed for different areas.
- (2) Section 4 and this section come into force on the day on which this Act is passed. 5
- (3) This Act extends to England and Wales only.
- (4) This Act may be cited as the Drug Driving (Assessment of Drug Misuse) Act 2013.

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To provide for the assessment of drug dependency or propensity for drug misuse of persons who, in the course of investigations for certain driving offences, have provided blood or urine samples that reveal the presence of certain drugs; and for connected purposes.

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