



Number 7 of 2011

ROAD TRAFFIC ACT 2011

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Road Traffic Act 2011.

[2011.]

ACTS REFERRED TO

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7 Edw. 7, c. 17

Road Traffic Act 1994

1994, No. 7

Road Traffic Act 2003

2003, No. 37

Road Traffic Act 2006

2006, No. 23



Number 7 of 2011

ROAD TRAFFIC ACT 2011

AN ACT TO AMEND AND EXTEND THE ROAD TRAFFIC ACTS 1961 TO 2010 AND TO PROVIDE FOR RELATED MATTERS.

[27th April, 2011]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act “Act of 1994” means Road Traffic Act 1994. Definition.

2.—The Act of 1994 is amended by substituting for section 12 (inserted by section 2 of the Road Traffic Act 2003) the following: Obligation to provide preliminary breath specimen.

“12.—(1) This section applies to a person in charge of a mechanically propelled vehicle in a public place who, in the opinion of a member of the Garda Síochána—

- (a) has consumed intoxicating liquor,
- (b) is committing or has committed an offence under the *Road Traffic Acts 1961 to 2011*,
- (c) is or has been, with the vehicle, involved in a collision, or
- (d) is or has been, with the vehicle, involved in an event in which injury appears or is claimed to have been caused to a person of such nature as to require medical assistance for the person at the scene of the event or that the person be brought to a hospital for medical assistance.

(2) A member of the Garda Síochána shall, unless he or she is of opinion that the person should be arrested, and subject to subsections (6) and (7), require a person to whom paragraph (a) or (d) of subsection (1) applies, and may require a person to whom paragraph (b) or (c) of that subsection applies—

- (a) to provide, by exhaling into an apparatus for indicating the presence of alcohol in the breath, a specimen of his or her breath in the manner indicated by the member,

- (b) to accompany him or her to a place (including a vehicle) at or in the vicinity of the public place concerned and there to provide, by exhaling into such an apparatus, a specimen of his or her breath in the manner indicated by the member, or
- (c) where the member does not have such an apparatus with him or her, to remain at that place in his or her presence or in the presence of another member of the Garda Síochána (for a period that does not exceed one hour) until such an apparatus becomes available to him or her and then to provide, by exhaling into the apparatus, a specimen of his or her breath in the manner indicated by the member.

(3) A person who refuses or fails to comply immediately with a requirement of a member of the Garda Síochána under this section commits an offence and is liable on summary conviction to a class A fine or to imprisonment for a term not exceeding 6 months or to both.

(4) A member of the Garda Síochána may arrest without warrant a person who in the member's opinion is committing or has committed an offence under this section.

(5) In a prosecution for an offence under this Part or under section 49 or 50 of the Principal Act it shall be presumed, until the contrary is shown, that an apparatus provided by a member of the Garda Síochána for the purpose of enabling a person to provide a specimen of breath under this section is an apparatus for indicating the presence of alcohol in the breath.

(6) A member of the Garda Síochána shall not make a requirement under subsection (2) of a person to whom paragraph (a) of subsection (1) applies if, in the opinion of the member, such requirement would be prejudicial to the health of the person.

(7) A member of the Garda Síochána shall not make a requirement under subsection (2) of a person to whom paragraph (d) of subsection (1) applies if, in the opinion of the member or on the advice of a doctor or other medical personnel attending the scene of the event, such requirement would be prejudicial to the health of the person.

(8) Section 1(1) of the Probation of Offenders Act 1907 does not apply to an offence under this section.

(9) Nothing in this section affects any power of arrest conferred by law apart from this section.

(10) It is not a defence in any proceedings, other than proceedings under subsection (3), to show that a member of the Garda Síochána did not make a requirement under this section.”.

Obligation to provide blood or urine specimen while in hospital.

3.—The Act of 1994 is amended by substituting for section 15 the following:

“15.—(1) Where, in a public place, an event occurs in relation to a mechanically propelled vehicle in consequence of which a person is injured, or claims or appears to have been injured, and

is admitted to, or attends at, a hospital and a member of the Garda Síochána is of opinion that, at the time of the event, the person was driving or attempting to drive, or in charge of with intent to drive or attempt to drive (but not driving or attempting to drive), the mechanically propelled vehicle, then, subject to subsection (4) and unless the member is of opinion that the person should be arrested, the member shall, in the hospital, require the person either—

- (a) to permit a designated doctor or designated nurse to take from the person a specimen of his or her blood, or
- (b) at the option of the person, to provide for the designated doctor or designated nurse a specimen of his or her urine,

and if the doctor or nurse states in writing—

- (i) that he or she is unwilling, on medical grounds, to take from the person or be provided by the person with the specimen to which the requirement in either of the foregoing paragraphs related, or
- (ii) that the person is unable or unlikely within the period of time referred to in section 49 or 50 of the Principal Act, as the case may be, to comply with the requirement,

the member may make a requirement of the person under this subsection in relation to the specimen other than that to which the first requirement related.

(2) Subject to section 23, a person who, following a requirement under subsection (1)—

- (a) refuses or fails to comply with the requirement, or
- (b) refuses or fails to comply with a requirement of a designated doctor or designated nurse in relation to the taking under that subsection of a specimen of blood or the provision under that subsection of a specimen of urine,

commits an offence and is liable on summary conviction to a class A fine or to imprisonment for a term not exceeding 6 months or to both.

(3) Notwithstanding subsection (2), it is not an offence for a person to refuse or fail to comply with a requirement under subsection (1) where, following his or her admission to, or attendance at, a hospital, the person comes under the care of a doctor or nurse and the doctor or nurse refuses, on medical grounds, to permit the taking or provision of the specimen concerned.

(4) Before making a requirement of a person under subsection (1) the member of the Garda Síochána concerned shall consult with a doctor treating the person, and if a doctor treating the person advises the member that such a requirement would be prejudicial to the health of the person the member shall not make such requirement.

(5) A member of the Garda Síochána may, for the purpose of making a requirement of a person under subsection (1), enter without warrant any hospital where the person is or where the member, with reasonable cause, suspects the person to be.

(6) A designated doctor or designated nurse may, for the purpose of taking from a person a specimen of his or her blood or being provided by a person with a specimen of his or her urine under subsection (1), enter any hospital where the person is or where the doctor or nurse is informed by a member of the Garda Síochána that the person is.

(7) Section 1(1) of the Probation of Offenders Act 1907 does not apply to an offence under this section.

(8) Nothing in this section affects any power of arrest conferred by law apart from this section.

(9) It is not a defence in any proceedings, other than proceedings under subsection (2), to show that a member of the Garda Síochána did not make a requirement under this section.”.

Amendment of section 4 of Road Traffic Act 2006 — mandatory alcohol testing.

4.—Section 4 of the Road Traffic Act 2006 is amended in subsection (4) by substituting “including those functions under section 12 (inserted by *section 2* of the *Road Traffic Act 2011*) of the Act of 1994” for “including the powers under section 12 (inserted by the Act of 2003) of the Act of 1994”.

Short title, commencement and collective citation.

5.—(1) This Act may be cited as the Road Traffic Act 2011.

(2) This Act comes into operation on such day as the Minister for Transport may fix by order.

(3) The Road Traffic Acts 1961 to 2010 and this Act may be cited together as the Road Traffic Acts 1961 to 2011 and shall be read together as one.