



Department
for Transport

Guidance for healthcare professionals on drug driving

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Summary

A new offence of driving with certain specified controlled drugs¹ in excess of specified levels in the body is expected to come into force on 2 March 2015². This offence is an addition to the existing rules on drug impaired driving and fitness to drive. The legislation also provides for a statutory “medical defence” for this new offence, for patients taking their medicines in accordance with instructions.

In line with current professional practice, healthcare professionals prescribing or supplying medicines take account of the risks of medicines (such as whether a patient’s driving may be impaired by their medicines) and advise accordingly. This clinical practice has not changed. However, healthcare professionals are likely to want to be able to explain the new rules concerning this offence to patients.

This Department for Transport guidance document has been developed on the advice of independent clinical experts and has been approved by the Secretary of State’s Honorary Advisory Panel on Alcohol, Drugs and Substance Misuse. It is intended to assist healthcare professionals by clarifying key relevant information.

Background

This guidance is intended to provide healthcare professionals with:

- a clear explanation of the new legislation including the statutory “medical defence” available to patients who have taken their medicine in accordance with the advice of a healthcare professional and/or the information contained in the leaflet accompanying the medicine ; and
- a reiteration of existing advice that healthcare professionals would normally consider giving to patients about taking medicines that could impair their driving.

The new drug driving offence

There is already an offence of driving whilst impaired through drugs (whether due to non-medical use of drugs or due to legitimate use of medicines) in section 4 of the Road Traffic Act 1988. This offence will remain in force alongside the new drug driving offence. This offence is not new and it has not changed.

The new offence refers to driving, attempting to drive or being in charge of a vehicle with a specified controlled drug in the body, in excess of a specified limit (Section 5A of the Road Traffic Act 1988 as amended in April 2013). The drugs to be covered by this offence are defined in regulations supporting the offence and are listed below.

¹ Controlled drugs are defined in the Misuse of Drugs Act 1971

² Depends upon the Regulations being approved by Parliament.

Roadside drug screening devices will be developed using oral fluid (saliva) to identify if the person driving or in control of the vehicle had taken a drug as listed below (or one that may be metabolised into one of these drugs). Following a positive screening result using oral fluid, the person can then be requested to provide a blood sample for evidential purposes, to enable prosecution for the new offence if above the specified limit.

Those individuals who have taken their medicine(s) in accordance with the advice of the prescriber or supplier of the medicine(s) (and/or the product information included in the medicine pack) who are found to have a blood level higher than that specified in the regulations are entitled to raise the statutory “medical defence” at any stage (see below for full explanation), and might then not be asked to provide a blood sample.

Impact of the new drug driving offence on patients

The types of drugs that can produce, on testing, specified controlled drugs above specified levels, fall broadly into two groups.

The first group consists of commonly abused drugs for which low limits have been set. This group includes certain medicines that will be taken by only a small proportion of drivers. Given the low limits set, a patient prescribed one of these medicines who chooses to drive could test above the specified limit but would still be entitled to raise the statutory “medical defence”. This ‘zero tolerance’ group currently includes:

| | |
|-------------------|---|
| Cannabis (THC)* | Cocaine (and a cocaine metabolite, BZE) |
| MDMA (Ecstasy) | Lysergic Acid Diethylamide (LSD) |
| Ketamine | Heroin/diamorphine metabolite (6-MAM) |
| Methylamphetamine | |

**Tetrahydrocannabinol (THC) is the active ingredient of cannabis and specified in the regulations.*

The second group consists of mainly licensed medicines that have a significant liability to be abused, and for which the specified limits have been set at a higher level than the first group. The higher limits are generally above the normal therapeutic range so most patients are unlikely to be driving with a concentration of a specified drug in their body above the specified limit. However, those on particularly high doses, for example, could test above the specified limit and would still be entitled to raise the statutory “medical defence”. This second group includes the following benzodiazepines:

| | | |
|------------|-----------------|-----------|
| Clonazepam | Flunitrazepam** | Oxazepam |
| Diazepam | Lorazepam | Temazepam |

***No longer licenced in the UK*

Plus:

| | | |
|-----------|----------|----------------|
| Methadone | Morphine | Amphetamine*** |
|-----------|----------|----------------|

****Whilst amphetamine will not be included in the current regulations to go before Parliament in 2014 it is expected to be included later in 2015 once a limit has been agreed*

The statutory “medical defence” can be raised by patients taking medicines in accordance with instructions, from either of these two groups.

Information on whether any particular medicine is affected by the new legislation can be found in the Summary of Product Characteristics for that medicine.

The statutory "medical defence"

This new offence does not alter in any way the clinical advice that should be given to patients in future, which, as now, is based on a proper professional judgement for each patient of what is the appropriate discussion concerning the risks of their medicines.

A patient who was investigated for drug driving would generally be entitled to raise the statutory “medical defence” if:

- a. The drug was lawfully prescribed, supplied, or purchased over-the-counter, for medical or dental purposes; and
- b. The drug was taken in accordance with advice given by the person who prescribed or supplied the drug, and in accordance with any accompanying written instructions (so far as the latter are consistent with any advice of the prescriber).

In relation to b above, the advice from a prescriber can be considered, patient-specific advice following assessment of the particular prescribing needs for that individual patient. This advice can sometimes differ from the general instructions in the medicine’s information leaflet. That healthcare professional’s advice can be then properly used in such circumstances as a basis for the patient’s statutory “medical defence”.

If the police had evidence that the patient's driving was impaired due to drugs, whether prescribed or not, they can prosecute under the existing offence of driving whilst impaired through drugs offence described in section 4 of the Road Traffic Act 1988, for which there is no statutory “medical defence”:

Drug driving and the statutory "medical defence"

If you discuss the new offence and the statutory "medical defence" with your patient, as prescriber or supplier of the medicine, or are questioned by patients on this, you may find the following points useful in the discussion. If you provide leaflets to your patients concerning their medicines you may also find the following points useful when you are developing or updating these.

- The police have new powers to test and prosecute drivers who are suspected of driving having taken certain specified controlled drugs in excess of specified levels in the body
- Unlike the existing offence of driving whilst impaired by a drug, the new offence has a statutory "medical defence" to protect those patients who may test positive for certain specified drugs taken in accordance with the advice of a healthcare professional or the patient information leaflet that accompanies the medicine
- It may therefore be helpful for patients to keep some suitable evidence with them when they are driving that provides evidence that they are taking the controlled drug as a medicine prescribed or supplied by a healthcare professional or bought over-the-counter and taken in accordance with the leaflet accompanying the medicine, in case that patient was ever stopped by the police.
- The patient may wish to choose carefully the evidence they plan to provide if it were needed, so as to minimise the risk of sharing particularly personal or sensitive information they would prefer to keep confidential.
- If the police are satisfied that a driver is taking the relevant medicine on the advice of a healthcare professional or in accordance with the leaflet that accompanies the medicine, the police will not prosecute them for this offence.
- However, it remains the responsibility of all drivers, including patients, to consider whether they believe their driving is, or might be, impaired on any given occasion, for example if they feel sleepy. It will remain an offence, as now, to drive whilst their driving is impaired by drugs; and, if in doubt, drivers should not drive. The statutory "medical defence" will not be extended to be available for the existing 'impairment' offence because even if legitimately taking a medicine, the patient should not be driving if actually impaired.

Factors to consider when advising a patient as to whether their driving is likely to be impaired

It is a driver's responsibility to decide whether they consider their driving is, or they believe might be, impaired on any given occasion.

It is the responsibility of prescribers and suppliers of medicines to give suitable clinical advice to patients regarding the likely risks of their medicines as part of their normal professional practice (including advice on serious and common side-effects), which might include for example, for some drugs the advice that the drug may cause sleepiness and so might impair driving.

Based on existing best practice, current advice given to patients about issues related to 'medicines and driving' typically covers the following points, as relevant to each case:

- Not to drive if any symptoms or signs develop suggesting that their driving may be impaired, such as experiencing sleepiness, poor coordination, impaired or slowed thinking, dizziness, or visual problems.
- Not to drive at certain times when the risk may be temporarily increased, for example, when first starting, or when first increasing or reducing the dose of, a medicine that may potentially impair their driving
- To take particular care in circumstances that may increase the risk of their driving being impaired whilst taking their medicine, and to avoid driving if this occurs. Such situations could include:
 - if another prescribed medicine is added that could also impair their driving alongside the already potentially impairing medicine(s)
 - if they take an over-the-counter medicine that could also potentially impair their driving if taken alongside the prescribed medicine;
 - if other medicines are being obtained from other prescribers that may have an impact on their driving;
 - if there is a developing medical condition that could increase the risk of the impairing side-effects from the prescribed medicine (for example, during the development of a serious illness with recent marked loss of weight);
 - if the patient takes any new medicines that are known to be able to affect the metabolism of their existing medicine and so might impair their driving; or
 - other relevant situations, such as the effects of age or the re-initiation of a medicine that previously caused a period of sleepiness that impaired driving.
- To be aware that alcohol taken in combination with other impairing drugs can substantially increase the risk of accidents.
- A patient suffering with a condition that is being treated by a medicine that is also one of the specified drugs for the new offence, should normally still be encouraged to keep taking their prescribed medicine for that clinical condition in accordance with the advice of the prescriber or pharmacist. If the patient has been driving in line with such advice, and

has no reason to think themselves impaired to drive (for example, not having developed new symptoms such as sleepiness), they can be advised they will be entitled to raise the statutory "medical defence".

Alcohol

There is a body of evidence which shows that all of the drugs listed in the new drug driving offence result in a significantly greater road safety risk when taken in combination with alcohol, even in small amounts.

Other rules on fitness to drive

The new offence has been created in addition to the existing rules on reporting medical conditions which affect fitness to drive to the Driver and Vehicle Licensing Agency.

The latest information on the medical standards for driving in Great Britain and Northern Ireland can be found online at www.gov.uk/government/publications/at-a-glance.

The medical standards are reviewed regularly and are based on the minimum EU standards for driving and the advice of the Secretary of State's Medical Advisory Panels.

Other sources of advice

More information on the drug driving legislation can be found online at <https://www.gov.uk/drug-driving-law>