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**Medical Cannabis and
Driving:
Guidance for Prescribers
and their Patients**

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Agenda



- 'Drug-driving' offences
 - i. Impairment Offence
 - ii. Blood Level Offence
- The Blood Level Defence
- Thresholds
- At the road-side and the police station
- Questions

The law – Two ‘drug-driving’ offences

- It’s illegal to drive if either:
 - you’re unfit to do so because you’re on legal or illegal drugs
 - you have certain levels of illegal drugs in your blood (even if they have not affected your driving)
- Road Traffic Act, 1988, s.4 (1) and (2) - **Unfit through drink or drugs (in charge) (Revised 2017)**
- Road Traffic Act 1988, s.5A - **Driving or Attempting to Drive with a specified drug above the specified limit**

Impairment Offence

→ Road Traffic Act, 1988, s.4 (1) and (2) - **Unfit through drink or drugs (in charge) (Revised 2017):**

1) A person who, when driving or attempting to drive a [mechanically propelled vehicle] on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.

2) Without prejudice to subsection (1) above, a person who, when in charge of a [mechanically propelled vehicle] which is on a road or other public place, is unfit to drive through drink or drugs is guilty of an offence.

Blood Level Offence

→ Road Traffic Act 1988, s.5A - Driving or Attempting to Drive with a specified drug above the specified limit:

(1) This section applies where a person ("D")—

(a) drives or attempts to drive a motor vehicle on a road or other public place, or

(b) is in charge of a motor vehicle on a road or other public place, and there is in D's body a specified controlled drug.

(2) D is guilty of an offence if the proportion of the drug in D's blood or urine exceeds the specified limit for that drug.

Blood Level Offence - Thresholds

Table of drugs and limits

| 'Illegal' drugs ('accidental exposure' – zero tolerance approach) | Threshold limit in microgrammes per litre of blood (µg/L) |
|--|--|
| benzoylecgonine | 50µg/L |
| cocaine | 10µg/L |
| delta-9-tetrahydrocannabinol (cannabis) | 2µg/L |
| ketamine | 20µg/L |
| lysergic acid diethylamide | 1µg/L |
| methylamphetamine | 10µg/L |
| Methylenedioxymethamphetamine (MDMA) | 10µg/L |
| 6-monoacetylmorphine (heroin) | 5µg/L |

| 'Medicinal' drugs (risk based approach) | Threshold limit in blood |
|--|---------------------------------|
| clonazepam | 50µg/L |
| diazepam | 550µg/L |
| flunitrazepam | 300µg/L |
| lorazepam | 100µg/L |
| methadone | 500µg/L |
| morphine | 80µg/L |
| oxazepam | 300µg/L |
| temazepam | 1,000µg/L |
| Separate approach (to balance its risk) | Threshold limit in blood |
| amphetamine | 250µg/L |

Blood Level Offence: The Defence

→ Road Traffic Act 1988, s.5(3):

It is a defence for a person ("D") charged with an offence under this section to show that—

(a) the specified controlled drug had been prescribed or supplied to D for medical or dental purposes,

(b) D took the drug in accordance with any directions given by the person by whom the drug was prescribed or supplied, and with any accompanying instructions (so far as consistent with any such directions) given by the manufacturer or distributor of the drug, and

(c) D's possession of the drug immediately before taking it was not unlawful under section 5(1) of the Misuse of Drugs Act 1971 (restriction of possession of controlled drugs) because of an exemption in regulations made under section 7 of that Act (authorisation of activities otherwise unlawful under foregoing provisions).

At the Road-side and at the Police Station

- Police will conduct a road-side mouth swab
- A positive result means you will be conveyed to the police station for a blood test
- If the blood test confirms that the THC content in your blood is above the permitted level, you can then invoke your defence under Section 5(3)
- Being patient is not a good reason to refuse either test
- You could still be charged, and you would have to exercise your defence at court. Please note... Smoking your medication in a joint will invalidate your defence
- How long is a prescription valid for? Older than 2 months may be problematic



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