

Ordinance 06 of 2022

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**DRINKING AND DRIVING (AMENDMENT)  
ORDINANCE 2022**

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An Ordinance to amend the Drinking and Driving Ordinance 1993 to make further provisions on the enforcement of the prohibition on driving motor vehicles under the influence of drugs.

R. Thomson  
**ADMINISTRATOR**

*29 March 2022*

**BE** it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

**Short title and commencement**

**1.**—(1) This Ordinance may be cited as the Drinking and Driving (Amendment) Ordinance 2022.

(2) This Ordinance comes into force on 1 April 2022.

**Amendment of the Drinking and Driving Ordinance 1993**

**2.** The Drinking and Driving Ordinance 1993(a) is amended as follows.

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(a) Ordinance 6/1993, as amended by Ordinances 11/1993, 10/1995, 8/1998, 28/1999, 6/2006, 33/2012, and 9/2015.

### **Amendment of section 2 (interpretation)**

#### **3. In section 2—**

- (a) for the definition of “drug”, substitute—

““drug” means a controlled drug within the meaning of the Narcotic Drugs and Psychotropic Substances (Consolidation) Ordinance 2006(a);”;
- (b) after the definition of “road”, insert—

““saliva test” means a preliminary test for the purpose of obtaining, by means of a device of a type approved by the Administrator, an indication whether a person is unfit to drive through drugs;”;
- (c) after the definition of “specimen of breath”, insert—

““specimen of saliva” means a quantity of saliva that is—

  - (a) sufficient to enable the test or analysis to be carried out; and
  - (b) provided in such a way as to enable the objective of the test or analysis to be satisfactorily achieved;”.

### **Amendment of section 5 (breath test)**

#### **4.—(1) Section 5 is amended as follows.**

- (2) For the title substitute “Breath or saliva test”.
- (3) In subsection (1)—
  - (a) in paragraph (a), for “has alcohol in his body” substitute “has alcohol or drugs in their body”,
  - (b) in paragraph (b)—
    - (i) for “with alcohol in his body”, substitute “with alcohol or drugs in their body”, and
    - (ii) for “has alcohol in his body”, substitute “has alcohol or drugs in their body”,
  - (c) for “to provide”, substitute “, if the suspicion relates to having alcohol in their body or having committed a road traffic offence, to provide”, and
  - (d) at the end, insert “or, if the suspicion relates to having drugs in their body or having committed a road traffic offence, to provide a specimen of saliva for a saliva test”.
- (4) In subsection (2), at the end insert “or a specimen of saliva for a saliva test”.
- (5) In subsection (3), after “specimen” insert “of breath for a breath test”.
- (6) After subsection (3), insert—

“(3A) A person may be required, under subsections (1) and (2) above, to provide a specimen of saliva for a saliva test either at or near the place where the requirement is made or, if the police officer making the requirement thinks fit, at a police station specified by the officer.”.
- (7) In subsection (4), after “of breath” insert “or saliva”.
- (8) In subsection (5)—
  - (a) in paragraph (a)—
    - (i) for “he”, substitute “the police officer”,
    - (ii) for “; or”, substitute “;”,
  - (b) after paragraph (a), insert—

“(aa) as a result of saliva test the police officer has reasonable cause to suspect that the person is unfit to drive through drugs,”;

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(a) Ordinance 16/2006, as amended by Ordinances 22/2010 and 02/2011 and P.I. 7/2017.

- (c) in paragraph (b), for “he”, substitute “the person”,
- (d) at the end of paragraph (b), insert “or”,
- (e) after paragraph (b), insert—
  - “(c) that person has failed to provide a specimen of saliva for a breath test when required to do so in pursuance of this section and the police officer has reasonable cause to suspect that the person has drugs in their body,”.
- (9) After subsection (5), insert—
  - “(6) A police officer must, on requiring any person to provide a specimen in pursuance of this section, warn the person that a failure to provide it may render the person liable to prosecution.”.

**Amendment of section 6 (provision of specimens for analysis)**

- 5.—(1) Section 6 is amended as follows.
- (2) In subsection (1)—
  - (a) at the beginning of paragraph (a), insert “if the offence is one of being unfit to drive through drink,”;
  - (b) in paragraph (b), after “blood” insert “, saliva (if the offence is one of being unfit to drive through drugs),”.
- (3) In subsection (4), for “other than a specimen of breath”, substitute “of blood or urine”.

**Amendment of section 8 (protection of persons under hospital treatment)**

- 6. In section 8(2), after “blood”, insert “, “, saliva”.

**Amendment of section 9 (detention of persons affected by alcohol or a drug)**

- 7. In section 9(1)—
  - (a) after “specimen of”, insert “saliva,”, and
  - (b) for “under Sections 3 and 4 of this Ordinance”, substitute—
    - “—
    - (a) if the specimen was one of breath, blood or urine, under section 3 or 4 of this Ordinance, or
    - (b) if the specimen was one of saliva, under section 3 of this Ordinance, to the extent that that section relates to being unfit to drive through drugs.”.

**Amendment of section 10 (use of specimens in proceedings for offences under section 3 or 4)**

- 8.—(1) Section 10 is amended as follows.
- (2) In subsection (1), after “specimen of”, insert “saliva,”.
- (3) In subsection (4), after “specimen of”, insert “saliva,”.

**Amendment of section 11 (documentary evidence as to specimens for use in proceedings under sections 3 and 4)**

- 9. In section 11(1), after the first and third occurrences of “specimen of” insert “saliva,”.

## EXPLANATORY NOTE

*(This note is not part of the Ordinance)*

1. This explanatory note relates to the Drinking and Driving (Amendment) Ordinance 2022 (the “Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance. It does not form part of the Ordinance. It is not intended to be a comprehensive description.

2. The amendments are intended to mirror the Road Safety (amendment) Law of 2016 of the Republic, Law 13(I)/2016, published in gazette 4555 on 11 March 2016.

3. The Ordinance amends the Drinking and Driving Ordinance 1993 (the “principal Ordinance”).

4. Section 3 inserts new definitions of “drug”, “saliva test” and “specimen of saliva” in section 2 of the principal Ordinance.

5. Section 4 of the Ordinance makes various amendments to section 5 of the principal Ordinance.

6. Section 5(1) of the principal Ordinance is amended to provide that, where police officers reasonably suspect that a person driving, attempting to drive, being in charge of, or having driven, attempted to drive, or been in charge of, a vehicle on a road has drugs in their body, or has committed a road traffic offence, they may require the person to provide a specimen of saliva for a saliva test.

7. Section 5(2) is amended to provide that, in case of a road traffic accident, a police officer has the power to require a person they suspect to have driven, or attempted to drive, one of the vehicles involved to provide a specimen of saliva for a saliva test.

8. Section 5(3) is amended to provide that the subsection, which relates to the place where a specimen can be obtained, only relates to breath specimens. Section 5(3A) is inserted to make provision regarding the place where a specimen of saliva can be required under section 5(1) and (2) of the principal Ordinance, namely either at or near the place where the requirement is made or at a police station. Section 5(4) is amended to provide that a refusal to provide a specimen of saliva when required to do so under that Ordinance is an offence.

9. Section 5(5) is amended to provide for a power to arrest a person where the test gives cause to suspect that a person has driven a vehicle while unfit through drugs, or where a person has refused to provide a specimen of saliva in pursuance of that Ordinance.

10. New section 5(6) provides that a police officer must, on requiring any person to provide a specimen in pursuance of that section, warn the person that a failure to provide it may render the person liable to prosecution.

11. Section 5(2) of the Ordinance amends section 6(1) of the principal Ordinance, to provide that, in the course of an investigation about whether a person has attempted to drive while being unfit through drugs, a police officer may require the person to provide a specimen of saliva. Section 5(3) of the Ordinance makes consequential amendments to section 6(4) of the principal Ordinance, so that the provisions on choosing between specimens of blood and urine are not extended to specimens of saliva.

12. Section 6 of the Ordinance amends section 8(2) of the principal Ordinance, to extend the provision on the protection of persons under hospital care to those required to provide specimens of saliva.

13. Section 7 of the Ordinance amends section 9(1) of the principal Ordinance, to provide that persons who have been required to provide saliva tests can be detained while it is considered that they could be committing the offence of driving whilst unfit through drugs if they drove or attempted to drive a vehicle.

**14.** Section 8 of the Ordinance amends section 10 of the principal Ordinance, to add specimens of saliva to the list of the types of sample of which at least one must be provided to prove an offence of driving or being in charge of a motor vehicle when under influence of drink or drug or driving or being in charge of motor vehicle with alcohol concentration above the prescribed limit.

**15.** Section 9 of the Ordinance amends section 11(1) of the principal Ordinance to make provision for the means of proving the proportion of drugs in a specimen of saliva.

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