

Drugs and Driving



The Department for Transport has introduced a new offence of driving with certain drugs above specified limits in the blood; this came into force on 2 March 2015.

The list of drugs includes some licensed medicines. Drugs included in the new offence that might be used for medicinal purposes:

Cannabis

Cocaine

Morphine

Diamorphine

Methadone

Ketamine

Amphetamine

Flunitrazepam

Clonazepam

Diazepam

Lorazepam

Oxazepam

Temazepam



Impairment due to medication

It is an offence to drive or attempt to drive whilst unfit through drugs;

The law does not distinguish between illegal drugs and prescribed medication.

Some prescription drugs and over the counter medicines can affect the skills needed to drive safely because they may cause drowsiness, impaired judgement or other adverse effects.

Health professionals prescribing or dispensing medication should consider the risk associated with that medicine, or combination of medicines, and driving and take the opportunity to appropriately advise their patients.



Drugs and driving: the law

It's illegal to drive if you're unfit to do so because you're on legal or illegal drugs.

If the police stop you and think you're on drugs they can do a 'Field Impairment Assessment'. This is a series of tests, like asking you to walk in a straight line and checking the size of your pupils.

If they think you're unfit to drive because of taking drugs, you'll be arrested and will have a blood test at a police station. If the test shows you've taken drugs you could be charged with a crime.

You don't have to be on illegal drugs to be unfit to drive - many prescription or over-the-counter drugs can also impair your ability to drive. If you're on legal drugs and not sure, talk to your doctor, pharmacist or healthcare professional before driving.

www.gov.uk/drug-driving-law



Impairment Tests

1.Examination of pupils. A subject's pupils are examined and if they are outside the normal range of between 3.0 and 6.5mm this is recorded as abnormal.



2 Romberg test. The Romberg test is a test of the subject's internal clock. The subject is asked to tilt their head back slightly, close their eyes and estimate the passage of thirty seconds. Results of between 25 and 35 seconds are normal.

3.Walk and turn test. The subject is asked to stand with their right foot in front of the left foot, touching heel to toe. They are asked to take nine steps along the line, turn and walk nine steps back. The subject must count out loud and look at their feet while doing the test. If the subject fails to count out loud, look at their feet, loses balance etc., these failures are recorded.



4. One leg stand test. The subject is asked to stand on one leg with the foot raised 6 to 8 inches (15-20 cm) parallel to the ground. The subject is told to look at their foot and count out loud.



5. Finger to nose test. The subject is asked to extend the index fingers of both hands and hold them palms facing forward. With the head tilted slightly backwards and eyes closed the subject is asked to touch the tip of the nose with the tip of their finger with the hand indicated by the officer



The legislation provides a statutory “medical defence” for people taking the drugs for medical reasons, **if their driving was not impaired.**

The conditions of the medical defence state that the individual is not guilty of an offence if:

“The medicine was prescribed, supplied, or sold to treat a medical or dental problem, **and**

It was taken according to the instructions given by the prescriber or the information provided with the medicine”



Penalties for drug driving

If you're convicted of drug driving you'll get:

- **A minimum 1 year driving ban**
- **A fine of up to £5000.00**
- **A criminal record**
- **Your driving licence will also show you've been convicted for drug driving. This will last for 11 years**

A conviction for drug driving can also mean:

- **Your car insurance costs will increase significantly**
- **If you drive for work, your employer will see your conviction on your licence**
- **You may have trouble travelling to countries like the USA**



Unfit through drink or drugs (drive/attempt to drive)

Road Traffic Act 1988, s.4(1)

Triable only summarily:

Maximum: Level 5 fine and/or 6 months

- Must endorse and disqualify for at least 12 months
- Must disqualify for **at least** 2 years if offender has had two or more disqualifications for periods of 56 days or more in preceding 3 years – **refer to page 184 and consult your legal adviser for further guidance**
- Must disqualify for **at least** 3 years if offender has been convicted of a relevant offence in preceding 10 years – **refer to page 184 and consult your legal adviser for further guidance**

If there is a delay in sentencing after conviction, consider interim disqualification

Note: the final column below provides guidance regarding the length of disqualification that may be appropriate in cases to which the 3 year minimum applies. The period to be imposed in any individual case will depend on an assessment of all the relevant circumstances, including the length of time since the earlier ban was imposed and the gravity of the current offence.

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range	Disqualification	Disqual. 2nd offence in 10 years
Evidence of moderate level of impairment and no aggravating factors	Band C fine	Band C fine	12 – 16 months	36 – 40 months
Evidence of moderate level of impairment and presence of one or more aggravating factors listed below	Band C fine	Band C fine	17 – 22 months	36 – 46 months
Evidence of high level of impairment and no aggravating factors	Medium level community order	Low level community order to high level community order	23 – 28 months	36 – 52 months
Evidence of high level of impairment and presence of one or more aggravating factors listed below	12 weeks custody	High level community order to 26 weeks custody	29 – 36 months	36 – 60 months

Offence seriousness (culpability and harm)

B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

Common aggravating and mitigating factors are identified in the pullout card – the following may be particularly relevant but **these lists are not exhaustive**

Factors indicating higher culpability

1. LGV, HGV, PSV etc.
2. Poor road or weather conditions
3. Carrying passengers
4. Driving for hire or reward
5. Evidence of unacceptable standard of driving

Factors indicating greater degree of harm

1. Involved in accident
2. Location e.g. near school
3. High level of traffic or pedestrians in the vicinity

Factors indicating lower culpability

1. Genuine emergency established *
 2. Spiked drinks *
 3. Very short distance driven *
- * even where not amounting to special reasons

Careless driving (drive without due care and attention)

Triable only summarily:

Maximum: Level 5 fine

Must endorse and may disqualify. If no disqualification, impose 3 – 9 points

Offence seriousness (culpability and harm)

A. Identify the appropriate starting point

Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Momentary lapse of concentration or misjudgement at low speed	Band A fine	Band A fine 3 – 4 points
Loss of control due to speed, mishandling or insufficient attention to road conditions, or carelessly turning right across on-coming traffic	Band B fine	Band B fine 5 – 6 points
Overtaking manoeuvre at speed resulting in collision of vehicles, or driving bordering on the dangerous	Band C fine	Band C fine Consider disqualification OR 7 – 9 points

Offence seriousness (culpability and harm)

B. Consider the effect of aggravating and mitigating factors (other than those within examples above)

Common aggravating and mitigating factors are identified in the pullout card – the following may be particularly relevant but **these lists are not exhaustive**

<p>Factors indicating higher culpability</p> <ol style="list-style-type: none"> Excessive speed Carrying out other tasks while driving Carrying passengers or heavy load Tiredness <p>Factors indicating greater degree of harm</p> <ol style="list-style-type: none"> Injury to others Damage to other vehicles or property High level of traffic or pedestrians in vicinity Location e.g. near school when children are likely to be present 	<p>Factors indicating lower culpability</p> <ol style="list-style-type: none"> Minor risk Inexperience of driver Sudden change in road or weather conditions
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Form a preliminary view of the appropriate sentence, then consider offender mitigation

Common factors are identified in the pullout card

Consider a reduction for guilty plea

Consider ordering disqualification until appropriate driving test passed Consider ancillary orders, including compensation

Refer to pages 168-174 for guidance on available ancillary orders

Decide sentence Give reasons

Advice for healthcare professionals:

Any condition that requires medicinal treatment may itself pose a risk to driving ability if left untreated. Therefore it is important to advise patients to continue their treatment.

Advice to give to patients taking any medicine:

Continue taking your medicine as prescribed

Check the leaflet that comes with your medicine for information on how your medicine may affect your driving ability

It is against the law to drive if your driving ability is impaired by this medicine

Do not drive while taking this medicine until you know how it affects you (especially just after starting or changing the dose of the medicine)

Do not drive if you feel sleepy, dizzy, unable to concentrate or make decisions, or if you have blurred or double vision



New law on driving having taken certain drugs

July 2014

Key messages

- A new law on driving after taking certain drugs (including some medicines – see below) is coming into force in March 2015
- This law states that it is an offence to drive with certain drugs above specified levels in the body, whether your driving is impaired or not
- If you are taking these medicines as directed and your driving is not impaired, then you are not breaking the law
- Keep taking your medicines as prescribed
- Check the leaflet that comes with your medicines for information on how your medicines may affect your driving ability
- Do not drive after taking your medicines until you know how they affect you
- Do not drive if you feel drowsy, dizzy, unable to concentrate or make decisions, or if you have blurred or double vision
- If your driving is impaired then you are guilty of breaking the law



What is the issue?

A new law on driving with certain drugs above specified limits in the body is expected to come into force on 2nd March 2015.¹ The list of drugs includes certain medicines that are sometimes abused, such as medicines used to treat:

- extreme pain (morphine, diamorphine, ketamine)
- anxiety or inability to sleep (diazepam, clonazepam, lorazepam, oxazepam, temazepam)
- drug addiction (methadone)
- attention deficit hyperactivity disorder, also known as ADHD (amphetamine)
- multiple sclerosis (nabiximols)

If you are found to be driving with any of these medicines above the limits in your body, you could be guilty of breaking the law. But if you are taking the medicines according to the advice of your prescriber or leaflet in the package, and your driving is not impaired, then you are not guilty of breaking this law.

What will happen if I'm stopped by the police?

The police may use a roadside test to see if you have taken any of the drugs. If the test detects any relevant drugs, the type and level of the drugs in your body can be confirmed by a blood test taken at the police station. The law provides you with a "medical defence". This states that you are not guilty if:

- the medicine was prescribed, supplied, or sold to you to treat a medical or dental problem, and
- you took the medicine according to the instructions given by the prescriber or the information provided with the medicine.

But if your driving is impaired, you are guilty of breaking the law.

What should I do if I need to take any of the specified medicines?

Keep taking your medicine as prescribed. Check the leaflet that comes with your medicine for information on how your medicine may affect your driving ability. Do not drive while taking your medicine until you know how it affects you. Do not drive if you feel drowsy, dizzy, unable to concentrate or make decisions, or if you have blurred or double vision.

For further information on this new law, go to:
www.gov.uk/government/collections/drug-driving

¹ Dependent upon the approval date of the regulations by Parliament