

## Justice Committee

### Drug Driving (Specified Limits) (Scotland) Regulations 2019 [draft]

#### Written submission from Brake, the road safety charity

The following are Brake's views on the proposed new zero tolerance drug driving regulations in Scotland:

**The decision by the Scottish Government to select a zero-tolerance approach to eight controlled substances most commonly associated with illegal drug misuse (with limits set high enough to rule out accidental exposure), and a road safety risk approach to controlled substances associated with medical use – effectively replicating the approach taken in England and Wales in 2015?**

Brake strongly welcomes the decision by the Scottish Government to choose a zero-tolerance approach to the eight substances most commonly associated with illegal drug misuse, and a road safety risk approach to controlled medicinal drugs. Many illegal and medicinal drugs seriously impair driving ability, and Brake actively calls for a zero-tolerance approach.

This move sends out a clear message that drug driving will not be tolerated in Scotland and brings the law into line with England and Wales. The research suggests that the drug types provided for in the new offence will provide good coverage of the drug types most commonly identified in cases of impaired driving in Scotland, and, therefore, this new offence will likely have a positive impact on road safety in Scotland.

**The resource implications of the new offence, including whether these are accurately reflected in the Scottish Government's financial impact assessment?**

We do not have any views on the specific costings within the financial impact assessment, however, adequate resources should be provided to Police Scotland to ensure that they are able to enforce the new offence effectively as soon as it comes into force. Any perceived weakness in an offence's enforcement in the early stages of its introduction can lead to entrenched non-compliance and this must be assiduously avoided.

**Whether the planned implementation of the new offence from 21 October 2019 will create any difficulties?**

Difficulties will only arise if enforcement plans, such as roadside testing devices being available to all police forces, and awareness raising campaigns are not fully in place by this date.

## **Any lessons to be learned from the implementation of the same offence in England and Wales?**

The year following the implementation of the same offence in England and Wales, between March 2015 and April 2016, nearly 8,000 people were arrested for drug-driving in England and Wales (according to a Freedom of Information answer provided to the BBC by the government), so a surge in arrests should be anticipated and prepared for. However, it is highly probable that more arrests would have been made, had the enforcement of the law not been limited by the lack of Home Office type-approved road side drug testing devices.

At present, Home Office type approval has only been given to devices able to identify just two of the drugs types listed under the new offence in Scotland and existing law in England and Wales (cannabis and cocaine). There is no type-approved testing device for MDMA yet, for example. The lack of type approved road side drug testing devices is therefore likely to limit some of the effectiveness of this new offence, and we would therefore urge the Scottish Government to lobby the Home Office to prioritise the type-approval of roadside screening devices that can detect all banned drugs.

## **Any other matters concerning the regulations you may wish to raise?**

It is important that the implementation of the new offence is accompanied by additional enforcement efforts and a public awareness / communication campaign so that drivers get the message that drug driving will not be tolerated and those that break the law will be caught and punished accordingly.