



THE TRANSPORT (BREATH TESTS) NOTICE 1989

PURSUANT to section 57A of the Transport Act 1962 (as substituted by section 7 of the Transport Amendment Act (No. 2) 1988), the Minister of Transport hereby gives the following notice.

ANALYSIS

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NOTICE

1. Title and commencement—(1) This notice may be cited as the Transport (Breath Tests) Notice 1989.

(2) This notice shall come into force on the 1st day of April 1989.

2. Interpretation—In this notice—

“Alcosensor II” means an Alcosensor II with a 4 digit readout:

“DataMaster” means a BAC DataMasterTM:

“Dräger Alcotest” includes a Draeger Normalair Alcotest® 80, Draeger Safety Alcotest® 80, and Alcotest® 80/A:

“Dräger 7110” includes a Draeger Alcotest, Model 7110:

“Enforcement officer” means the enforcement officer conducting the test:

“Intoxilyzer 5000” means an Intoxilyzer® 5000 Breath Analysis Instrument:

“Lion Alcolmeter” means a Lion Alcolmeter S-L2:

“Seres Ethylometre” means a Seres Ethylometre, Model 679.

3. Approval of breath screening devices—The following devices are hereby approved as kinds of breath screening devices for the purposes of breath screening tests:

- (a) Dräger Alcotest:
- (b) Alcoyser:
- (c) Lion Alcolmeter.

4. Manner of carrying out breath screening tests by means of Dräger Alcotest—Breath screening tests carried out by means of a Dräger Alcotest device shall be carried out in the following manner:

- (a) *Step 1*: The sealed tips of both ends of the tube shall be broken off:
- (b) *Step 2*: The green end of the tube shall be inserted into the collar of the empty measuring bag, so that the arrow marked on the tube points towards the bag:
- (c) *Step 3*: The white end of the tube shall be pushed firmly into the mouthpiece:
- (d) *Step 4*: The person being tested shall blow through the mouthpiece and the tube until the bag is fully inflated. As far as possible, this should be done with one single breath in 10 to 20 seconds:
- (e) *Step 5*: The enforcement officer shall within 5 minutes examine the tube by daylight, or by the light of a torch or of any motor vehicle headlight or internal light, or by any other artificial light except mercury or sodium-vapour street lighting:
- (f) *Step 6 (results of test)*:
 - (i) If any of the yellow crystals are stained a green colour and this green stain extends from the end of the crystals closest to the arrow marked on the tube to and beyond the yellow ring marked around the middle of the portion of the tube containing the crystals, the test shall be taken to indicate that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath:
 - (ii) If any of the yellow crystals are stained a green colour, the test shall be taken to indicate that there is some alcohol in the person's breath.

5. Manner of carrying out breath screening tests by means of Alcoyser—Breath screening tests carried out by means of an Alcoyser device shall be carried out in the following manner:

- (a) *Step 1*: The sealed tips of both ends of the tube shall be broken off:
- (b) *Step 2*: The red end of the tube shall be inserted into the collar of the empty measuring bag, so that the arrow marked on the tube points towards the bag:
- (c) *Step 3*: The end of the tube nearest the arrow shall be pushed firmly into the mouthpiece:
- (d) *Step 4*: The person being tested shall blow through the mouthpiece and the tube until the bag is fully inflated. As far as possible, this should be done with one single breath in 10 to 20 seconds:
- (e) *Step 5*: The enforcement officer shall within 5 minutes examine the tube by daylight, or by the light of a torch or of any motor vehicle headlight or internal light, or by any other artificial light except mercury or sodium-vapour street lighting:
- (f) *Step 6 (results of test)*:

(i) If any of the yellow crystals are stained a green colour and this green stain extends from the end of the crystals closest to the arrow marked on the tube to or beyond the red line marked on the middle of the portion of the tube containing the crystals, the test shall be taken to indicate that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath:

(ii) If any of the yellow crystals are stained a green colour, the test shall be taken to indicate that there is some alcohol in the person's breath.

6. Manner of carrying out breath screening tests by means of Lion Alcolmeter—Breath screening tests carried out by means of a Lion Alcolmeter device shall be carried out in the following manner:

(a) *Step 1 (zero test)*: The enforcement officer shall depress the SET button and shall then depress the READ button for approximately 10 seconds and observe that the green READY light on the device comes on and remains lit for that period before the screening test may proceed:

(b) *Step 2 (breath screening test)*:

(i) The enforcement officer shall depress the SET button and attach the mouthpiece; and

(ii) The person being tested shall blow through the mouthpiece; and

(iii) The enforcement officer shall depress the READ button when the green B light on the device comes on, while the person is still blowing; and

(iv) The enforcement officer shall observe the amber PASS and red FAIL lights on the device:

(c) *Step 3 (results of test)*:

(i) If the amber PASS light alone comes on and then goes out, the result shall be taken to indicate that the test is negative:

(ii) If the amber PASS light comes on and then the red FAIL light comes on, and then the red FAIL light goes out, the result shall be taken to indicate that the proportion of alcohol in the person's breath exceeds 150 micrograms of alcohol per litre of breath:

(iii) If the amber PASS light comes on and then the red FAIL light comes on, and then the amber PASS light goes out, the result shall be taken to indicate that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath.

7. Approval of evidential breath-testing devices—The following devices are hereby approved as kinds of evidential breath-testing devices for the purposes of evidential breath tests:

(a) Alcosensor II:

(b) Intoxilyzer 5000:

(c) Dräger 7110:

(d) Seres Ethylometre:

(e) DataMaster.

8. Approval of conclusive evidential breath-testing devices—The evidential breath-testing devices specified in paragraphs (b) to (e) of clause

7 of this notice are each hereby approved as conclusive without the option of a blood test for the purposes of section 58 (5) of the Transport Act 1962.

9. Manner of carrying out evidential breath tests by means of Alcosensor II—Evidential breath tests carried out by means of an Alcosensor II device shall be carried out in the following manner:

- (a) *Step 1 (first zero test)*: The enforcement officer shall depress the SET button, and shall then depress the READ button for approximately 10 seconds and observe the resulting digital reading, which must be 0000 before the standardisation test (*step 2*) may proceed:
- (b) *Step 2 (standardisation test)*: The enforcement officer shall—
 - (i) Depress the SET button; and
 - (ii) Introduce into the device alcohol vapour from a container marked with the words “Breath Test Standard Alcohol Vapour supplied by the Department of Scientific and Industrial Research”; and
 - (iii) Depress the READ button while the vapour is being introduced and observe the maximum digital reading. If this reading is equal to or less than the level indicated on the Breath Test Standard Alcohol Vapour container, the second zero test (*step 3*) may proceed:
- (c) *Step 3 (second zero test)*: The enforcement officer shall depress the SET button, and shall then depress the READ button for approximately 10 seconds and observe the resulting digital reading, which must be 0000 before the evidential breath test (*step 4*) may proceed:
- (d) *Step 4 (evidential breath test)*:
 - (i) The enforcement officer shall depress the SET button and attach the mouthpiece; and
 - (ii) The person being tested shall blow through the mouthpiece; and
 - (iii) The enforcement officer shall depress the READ button while the person is blowing through the mouthpiece and observe the maximum digital reading; and
 - (iv) The enforcement officer shall record the maximum digital reading in writing:
- (e) *Step 5 (result of test)*: The maximum digital reading so recorded shall be taken to indicate the number of micrograms of alcohol per litre of breath of the person tested.

10. Manner of carrying out evidential breath tests by means of Intoxilyzer 5000, Dräger 7110, Seres Ethylometre, or DataMaster—Evidential breath tests carried out by means of an Intoxilyzer 5000, a Dräger 7110, a Seres Ethylometre, or a DataMaster shall be carried out in the following manner:

- (a) *Step 1 (start of testing sequence)*: The enforcement officer shall depress the button for starting the test:
- (b) *Step 2 (evidential breath test)*: The enforcement officer shall—
 - (i) Observe the display panel on the device; and
 - (ii) Attach a new mouthpiece to the breath inlet tube; and
 - (iii) Instruct the person being tested to blow through the mouthpiece to provide a subject breath specimen sufficient for analysis; and

(iv) Continue the testing sequence in accordance with the instructions displayed by the device, providing new mouthpieces as required, until the testing sequence has been completed:

(c) *Step 3 (results of test):*

(i) The results of the various steps in the testing sequence will be shown on the result card or printout, and will include the Evidential Breath Test Result which shall be taken to indicate the number of micrograms of alcohol per litre of breath of the person tested:

(ii) If the Evidential Breath Test Result is "Incomplete Test", the test has been unable to be carried out.

11. Revocation—The Transport (Breath Tests) Notice 1987* is hereby revoked.

Dated at Wellington this 15th day of March 1989.

W. P. JEFFRIES,
Minister of Transport.

*S.R. 1987/222

EXPLANATORY NOTE

This note is not part of the notice, but is intended to indicate its general effect.

This notice revokes and replaces, as from 1 April 1989, the Transport (Breath Tests) Notice 1987.

The notice makes the following principal changes:

- (a) The Lion Alcolmeter ceases to be an approved breath-testing device.
- (b) The Lion Alcolmeter S-L2 is approved as a breath screening device.
- (c) The Dräger 7110, Seres Ethylometre, and DataMaster are approved as breath-testing devices.
- (d) The Intoxilyzer 5000, Dräger 7110, Seres Ethylometre, and DataMaster are approved as conclusive breath-testing devices for the purposes of section 58 (5) of the Transport Act 1962.
- (e) Procedures are prescribed for the use of the new approved devices.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 30 March 1989.

This notice is administered in the Ministry of Transport.