



THE TRANSPORT (BREATH TESTS) NOTICE (NO. 2) 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 (No. 2) 1989.

(2) This notice shall come into force on the 15th day of December 1989.

2. Interpretation—(1) In this notice—

“Alcosenor II” means an Alcosenor II with a 4 digit readout; and includes any device with a 4 digit readout having the trade name “Alcosenor” and associated with the number II:

“DataMaster” means a BAC DataMaster; and includes any device having the trade name “DataMaster” or “Data Master”, whether associated with the expression “BAC” or not:

“Dräger Alcotest” means a Dräger Alcotest® 80/A, Draeger Normalair Alcotest® 80, Draeger Safety Alcotest® 80, or Alcotest® 80/A; and includes any device having the trade name “Dräger”, “Drager”, or “Draeger”, and associated with the number 80 or the expression “80A”, “80/A”, or “Alcotest®”:

“Dräger 7110” means a Dräger Alcotest 7110; and includes any device having the trade name “Dräger”, “Drager”, or “Draeger”, and associated with the number 7110:

“Enforcement officer” means the enforcement officer (within the meaning of section 57A of the Transport Act 1962) who is conducting the test:

“Intoxilyzer 5000” means an Intoxilyzer® 5000 Breath Analysis Instrument; and includes any device having the trade name “Intoxilyzer” and associated with the number 5000:

“Lion Alcolmeter” means a Lion Alcolmeter S-L2A NZ; and includes any device having the trade name “Lion Alcolmeter” or “lion alcolmeter”, and associated with the expression “S-L2” or with an expression containing the elements “S-L2”:

“Seres” means a Seres Ethylometre model S 679; and includes any device having the trade name “Seres” and associated with the number 679.

(2) For the purposes of subclause (1) of this clause, a device shall be deemed to have a particular trade name or be associated with a particular number or expression if that trade name or number or expression—

- (a) Appears on the device (whether by means of a label or otherwise) or is shown on the display panel on the device; or
- (b) Is printed out by the device on a card or on paper; or
- (c) Appears on any printed matter that accompanies the device or is issued by or on behalf of the manufacturer of the device.

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) Alcolyser:
- (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 an 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 a 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 in the tube 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 in the tube 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 Alcolyser—Breath screening tests carried out by means of an Alcolyser 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 an 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 a 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 in the tube 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 in the tube 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 at a pressure and for a period sufficient to cause the green B light on the device to come on and to enable the enforcement officer to depress the READ button; and
 - (iii) The enforcement officer shall depress the READ button while the green B light on the device is on; 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) DataMaster:
- (c) Dräger 7110:
- (d) Intoxilyzer 5000:
- (e) Seres.

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 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 DataMaster, Dräger 7110, Intoxilyzer 5000, or Seres—Evidential breath tests carried out by means of a DataMaster, a Dräger 7110, an Intoxilyzer 5000, or a Seres 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 carry out the testing sequence in accordance with the instructions appearing on the display panel on the device; and—
- (i) The enforcement officer shall attach a new mouthpiece to the breath inlet tube and instruct the person being tested to blow through the mouthpiece; and
 - (ii) The person being tested shall blow through the mouthpiece to provide a subject breath specimen sufficient for analysis, when instructed by the enforcement officer; and
 - (iii) Step 2 (i) and Step 2 (ii) shall be repeated, 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 1989* is hereby revoked.

Dated at Wellington this 11th day of December 1989.

W. P. JEFFRIES,
Minister of Transport.

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 15 December 1989, the Transport (Breath Tests) Notice 1989.

The notice—

- (a) Approves kinds of breath screening devices, evidential breath-testing devices, and conclusive evidential breath-testing devices;
- (b) Prescribes the manner in which tests are to be carried out using approved devices;
- (c) Clarifies some of the definitions used in the former notice;
- (d) Clarifies the testing sequence for Lion Alcolmeter (*clause 6*), DataMaster, Dräger 7110, Intoxilyzer 5000, and Seres (*clause 10*).

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 14 December 1989.
This notice is administered in the Ministry of Transport.