

## Preliminary Drug Testing – Frequently Asked Questions

Find out the answers to the most common questions about Preliminary Drug Testing.

1. *What drugs can the Gardaí test for?*

The new oral fluid preliminary drug test, which can be conducted at the roadside or in a Garda station, can test for Cannabis, Cocaine, Opiates and Benzodiazepines.

2. *What drugs can the Medical Bureau for Road Safety Test for?*

Where an evidentiary blood or urine specimen is taken the Medical Bureau for Road Safety can test for Cannabis, Benzodiazepines, Opiates, Methadone, Amphetamines (including methamphetamine, MDA and MDMA) and Cocaine.

3. *Why is driving on drugs considered dangerous?*

Driving is a complex task and drugs can impair how we function. This impairment can interfere with ability to control a motor vehicle to the extent that we can become a danger to ourselves and other road users.

4. *I thought the Gardaí could already test for drugs?*

The Gardaí, with the assistance of the Medical Bureau of Road Safety, have been testing Irish drivers for drugs since 1999. What is new is that the Gardaí now have the power to conduct preliminary drug tests at the roadside or in Garda stations.

5. *How will the Gardaí test for these drugs?*

The Gardaí will use preliminary drug testing devices at the roadside or in Garda station to test a person's oral fluid for Cannabis, Cocaine, Opiates and Benzodiazepines. If positive, a blood specimen can be taken which will be sent to the MBRS for evidential testing.

If the Garda forms the opinion that you are impaired and you have not had a preliminary drug test or the results of that test were negative, then they can request either a blood or urine specimen which will be sent to the Medical Bureau of Road Safety for testing.

6. *How often will these machines be calibrated/ checked they are working correctly?*

The new oral fluid test system is called the Drager Drugtest 5000, and this will be checked by the Medical Bureau of Road safety every 6 months to make sure that it is working correctly.

The Drugtest 5000 does a self-test every time it is switched on, which checks that the system is working correctly.

The system also requires a quality control test to be performed by a member of An Garda Síochána every 28 days. This involves inserting a positive cartridge and a negative cartridge, and the system checks that the correct result is achieved. Where this is not the case the system cannot be used.

7. *Where will Gardaí get these machines and how exactly do they work?*

A statutory function of the Medical Bureau of Road Safety is to approve, supply and test systems for preliminary drug testing to An Garda Síochána. To this end the Medical Bureau of Road Safety will supply the Drager Drugtest 5000 to the Gardaí.

The system uses a technique called lateral flow immunoassay to detect the presence or absence of drugs at or above a predefined concentration limit.

8. *What will I have to do at these check points?*

Similar to a Mandatory Alcohol Testing Checkpoint, the new law allows for a Mandatory Intoxicant Testing Checkpoint. This means that the Gardaí can now test for alcohol and drugs at the roadside. In addition to being breathalysed for alcohol, a person may now be asked to provide an oral fluid sample by using the swab to collect the oral fluid from inside their mouth. The Garda may also carry out an impairment test.

9. *What happens if I refuse to take part in the preliminary drug test?*

Refusal to provide an oral fluid sample is an offence which can on conviction lead to a €5,000 fine or imprisonment for a term not exceeding 6 months or to both a fine and imprisonment.

10. *How long will the test take?*

The oral fluid test will take approximately 10 minutes. It takes about 1 minute to collect the required amount of oral fluid. Once the oral fluid is collected then the cartridge is placed into the Drugtest 5000. It then takes 8 minutes to provide a result.

11. *Will I be arrested if my oral fluid is positive for drugs?*

If your oral fluid tests positive for cannabis or cocaine you will be arrested and brought to the station where a blood specimen will be collected and sent to the MBRS for analysis.

If your oral fluid tests positive for benzodiazepines or opiates and the Garda is of the opinion that you are impaired you will be arrested and brought to the station where a blood specimen will be collected and sent to the MBRS for analysis.

If your oral fluid tests positive for benzodiazepines or opiates and the Garda is of the opinion that you are not impaired you are not committing an offence and can drive on.

If my oral fluid is negative for drugs?

If your oral fluid tests negative but the Garda is of the opinion that you are impaired due to some other drug that the device doesn't pick up (e.g. amphetamines) you will be arrested and brought to the station where a blood or urine specimen will be collected and sent to the MBRS for analysis.

If your oral fluid tests negative but the Garda is of the opinion that you are not impaired, you are free to go.

12. *Are there limits for cannabis, cocaine and heroin in the legislation?*

Under the new legislation there are thresholds set for cannabis, cocaine and heroin. It is an offence to drive while over the threshold and the Garda does not need to prove impairment.

13. Will I lose my licence if I test positive?

If you are convicted in court for drug driving you will be disqualified from driving. It is up to the judge to decide how long to disqualify you for. Minimum disqualification periods are laid down in the legislation.

14. How many people have been caught drug driving in Ireland?

In 2016 the Medical Bureau of Road Safety tested 1,225 specimens for drugs and 800 (65%) specimens were confirmed to have a drug present.

15. Is drug driving a recognised international problem?

A recent report published by the European Traffic Safety Council titled 'Preventing Drug Driving in Europe' looked at the prevalence of psychoactive drugs in the driving population and this reported that the DRUID project in 2012 estimated that the EU mean prevalence amongst the general driving population for all investigated illicit drugs was 1.95%, and for medicines was 1.36%.

A further survey in 2015 stated that 11% of respondents self-declared that they had driven after using illicit drugs and 22% had driven after taking medicines that carried a warning that the drug might influence their ability to drive.

16. Why is this only being brought in now?

Technology for preliminary drug testing outside of the laboratory has improved considerably in the last number of years to the point that it is now an internationally acceptable for testing drivers. The introduction of this policy in Ireland was underpinned in the Road Traffic Act 2016, which was passed in December 2016 and provided the powers to allow the Gardaí to carry out preliminary drug testing.

17. How does our new system compare to international practice?

The proposed system, the Drager Drugtest 5000 is in use internationally for the enforcement of road traffic law. The system is in use in Germany, Norway, Denmark, Spain, Australia, England, Wales, Italy, Ukraine and the USA.

18. What are the penalties for drug driving?

The penalty for drug driving is the same as for drink driving – a maximum of €5,000 fine and up to 6 months imprisonment on summary conviction.

In terms of disqualification periods, for those convicted of the new offence of being above the threshold for cannabis, cocaine and heroin with no proof of impairment necessary by the Gardaí, the disqualification period is **not less than** 1 year for the first offence and **not less than** 2 years for the second or subsequent offence.

For the existing offence of drug driving while impaired, there is no change to the penalty or disqualification periods which are a minimum of 4 years for a first offence and 6 years for a second or subsequent offence.

19. Can I get a second opinion on my test results?

Where a person provides a specimen of blood or urine for evidentiary purposes, the specimen is divided in 2 sealed containers – one sealed container is sent to the MBRS for analysis and the other is offered to the person who may seek to have their own analysis carried out on the specimen.

20. Will the preliminary roadside test stand up in court / be used in court?

The roadside test is not evidentiary; it is only a preliminary test, like the roadside breath test. A further specimen of blood or urine will be required which will be taken in the Garda station and analysed by the MBRS and the results of that test will be used in court as evidence.

21. What is the training process that the Gardaí have undergone to be able to conduct these tests?

The Gardaí and the Medical Bureau of Road Safety are delivering the training for this. The Medical Bureau of Road Safety have provided technical training in the use of the Drager Drugtest 5000 and An Garda Síochána are providing training in the legal and operational requirements.

**Questions on medicines, drugs and driving:**

22. Will I test positively from taking over-the-counter medicine e.g. aspirin/cold and flu medicine?

Most over the counter medicines will not be detected by the new oral fluid test.

However, Codeine, which is contained in products like Neruofen Plus® and Solpadeine® is an opiate and is detectable in oral fluid after use. This is not a problem if you are not impaired. Codeine does have the ability to cause impairment which could affect your ability to drive safely. Medicines which can cause drowsiness such as anti-histamines which are in some cold and flu remedies may impair your ability to drive safely.

Follow the advice provided by your Doctor and/or pharmacist when taking any medicines and always read the patient information leaflet which will advise on recommended dosages and whether the medicine can affect your ability to drive.

23. Will herbal medications show up in the test?

In general herbal medicines will not show up in the test. However, if the herbal product contains a drug that can cause impairment it may be detected by the Medical Bureau of Road Safety in its analysis.

24. What should I do if I'm taking medication and not sure whether it affects my driving? Who can I talk to about my medication?

Follow the advice provided by your Doctor and/or pharmacist when taking any medicines and always read the patient information leaflet which will advise on recommended dosages and whether the medicine can affect your ability to drive. See the RSA leaflet on 'Medicines and Driving'.

25. Can't cannabis stay in your system for days after you smoke it?

The Drager Drugtest 5000 will detect  $\Delta^9$ -Tetrahydrocannabinol (THC), the active ingredient in cannabis, in oral fluid for about 6 hours after last use.

26. How can one be allowed to drive under medicinal cannabis if they have a note from their doctor, they are still impaired?

It is expected that an extremely small number of drivers will be able to avail of the medical exemption certificate where their **doctor** lawfully prescribes them with a product which contains a medicinal cannabinoid. This certificate does not allow them to drive if they are impaired.

A driver who tests positive for cannabis and is impaired is committing an offence.

27. I smoke cannabis regularly, how do I know when I am allowed to drive after taking it?

It is recommended to wait 24 hours after last using cannabis before driving. If you are sure you are no longer impaired as result of taking cannabis and more than 6 hours have elapsed since last use it should not be possible for a Garda to detect impairment and the  $\Delta^9$ -Tetrahydrocannabinol (THC) level in you oral fluid should be lower than the detection limit for the Cannabis test on the Drager Drugtest 5000.