

## **Mandatory Alcohol Interlocks - Questions and Answers**

### **What is an alcohol interlock?**

An alcohol interlock is a breath testing device wired into a vehicle's starting system. Before the vehicle can start, the driver must blow into the device. If any level of alcohol is detected on the driver's breath, the vehicle will not start.

The interlock prevents the vehicle being driven, rather than relying on a driver being caught while drinking and driving. This keeps the driver, their passengers and other road users safe.

### **Is this is a new type of sentence?**

No, alcohol interlock sentences have been available as a sentencing option since September 2012 for repeat offenders and offenders with high alcohol levels. The sentence is one of a range of sentences available to the courts for people convicted of drink-drive offences. However, it is proposed that the courts will be required to give this sentence to eligible offenders.

### **Why are you proposing to make alcohol interlocks mandatory for drink drive offences?**

Alcohol interlocks are very effective as a public safety measure because they physically prevent an offender from driving after drinking. However, only around 2% of eligible offenders have received the sentence since it became available in 2012.

Introducing a mandatory alcohol interlock sentence will make it clear that the sentence must be given to eligible offenders.

A mandatory alcohol interlock sentence will not prevent the courts from giving additional sentences, such as fines and imprisonment, should the circumstances of the offence merit it.

### **How many injuries and deaths are caused by drink drivers every year?**

Drink driving contributes significantly to vehicle crashes in New Zealand. It causes an average of 77 road deaths, 436 serious injuries and 1252 minor injuries each year.

For the five years from 2011 to 2015, the estimated social costs associated with drink driving averaged \$704 million per year.

## Which offences are eligible for the alcohol interlock sentence?

Alcohol interlocks will become mandatory for those offenders who are currently eligible for the alcohol interlock sentence.

The Government also proposes to include offenders who are currently subject to compulsory alcohol assessments and indefinite disqualification. As well as the normal criteria that apply for removing an interlock, these offenders will also need a satisfactory alcohol assessment.

The full eligibility criteria are below.

Proposed eligibility criteria	Qualifying Offences
First offenders (currently eligible for interlock sentences)	1 high alcohol level conviction in which: <ul style="list-style-type: none"> <li>- the blood alcohol level was at or exceeded 160 milligrams (mg) of alcohol per 100 millilitres (ml) of blood (3.2 x the current blood alcohol limit of 50 mg) or</li> <li>- the breath alcohol level was at or exceeded 800 micrograms of alcohol per litre of breath (3.2 x the current breath alcohol limit of 250 micrograms)</li> </ul>
Repeat offenders (currently eligible)	2 or more convictions for drink-drive offences within 5 years
Drink-drive offenders who are subject to mandatory alcohol and drug assessments and indefinite disqualification under section 65 of the Land Transport Act 1998 (additional)	<p><u>Either</u></p> <p>2 or more drink or drug-driving convictions within 5 years where at least one of the alcohol offences has:</p> <ul style="list-style-type: none"> <li>- a blood alcohol level exceeding 200 mg of alcohol per 100 ml of blood (4 x the current blood alcohol limit) or</li> <li>- a breath alcohol level exceeding 1,000 micrograms of alcohol per litre of breath (4 x the current breath alcohol limit) or</li> <li>- the offender refused to comply with the alcohol testing procedure</li> </ul> <p><u>Or</u></p> <p>3 or more drink or drug driving convictions within 5 years where at least one of the convictions is for a drink-drive offence</p>

## Who pays for interlocks?

Since being introduced, interlocks have been funded by offenders themselves. Interlocks cost between \$2,400 and \$2,800 for a 12-month interlock sentence. This cost comprises driver licensing fees, interlock installation and removal fees, and monthly rental costs.

This overall cost could mean that some offenders would not be able to afford to fit the interlock and complete the alcohol interlock sentence. As a result, the Government proposes establishing a financial assistance scheme of up to \$4 million per annum (GST exclusive). Officials have been asked to work through the details of the scheme.

## **Why should the taxpayer contribute to the cost of alcohol interlocks for some drink drivers?**

Alcohol interlocks are a very effective method for preventing drink-drive reoffending. Providing some financial assistance will mean that more alcohol interlocks can be fitted, and the public made safer as a result. The road safety and other benefits from alcohol interlocks rely entirely on offenders getting interlocks fitted and using them.

Most importantly, increasing the use of interlocks will help to reduce significantly drink-drive offences, contributing to making our roads safer for all road users.

## **What does the mandatory alcohol interlock sentence involve?**

Once an offender has received the mandatory alcohol interlock sentence, they need to apply to the NZ Transport Agency for an alcohol interlock licence. Once they have an alcohol interlock licence, they will need to use a vehicle fitted with an interlock for at least 12 months.

The interlock can only be removed if the offender has had six months free of violations. A violation is earned, for example, when an offender attempts to start the vehicle with alcohol on their breath or they attempt to tamper with the interlock. The six-month violation free period can be reduced to three months if the offender obtains a satisfactory alcohol assessment.

After the interlock is removed, the offender must apply for a zero-alcohol licence. The zero-alcohol licence must be held for three years. This means that the licence holder cannot drive with any alcohol in their breath or blood.

Currently, an offender must serve a three-month disqualification before an interlock can be fitted. This disqualification will be reduced to 28 days. International research suggests that interlocks work best if they are fitted as soon as possible after the offender is sentenced. However, there will be some situations where the court will still be able to impose a longer period of disqualification that must be served before the interlock is fitted.

## **Are interlocks an effective sentence for drink drivers?**

Interlocks force a person to change their behaviour in relation to drink and driving. People with an ingrained pattern of drink driving are likely to find the behaviour changes required very challenging.

Interlocks identify a person as a convicted drink driver, and are inconvenient to use. As well as needing to pass a breath test to start the vehicle, the device will require the driver to undergo further breath tests at random intervals while they are driving. The interlock must be serviced monthly by an interlock service centre.

To have the interlock removed from the vehicle, the offender must meet tough exit criteria. If they fail to meet these criteria, they remain on their alcohol interlock licence.

Currently, interlock users take an average of 18 months to meet the exit criteria to have the interlock removed from their vehicle. This is 6 months longer than the mandatory minimum 12-month period they must hold an alcohol interlock licence.

Once the interlock is removed, an offender must hold a zero-alcohol licence for three years.

### **Do mandatory alcohol interlocks prevent drink driving?**

International research shows that interlocks are effective in protecting the safety of the public, and reduce reoffending rates by an average of 60% while the devices are fitted.

Coupled with other interventions like drug and alcohol assessments there is the potential for on-going residual benefits once the device is removed.

### **What benefits would mandatory interlocks bring?**

Mandatory alcohol interlocks for specified offenders would save an estimated 8 lives, 43 serious injuries and 126 minor injuries a year.

Information provided by one of New Zealand's interlock providers suggests that the 556 interlocks fitted over the past three years prevented around 2,200 drink-drive events.

Making the interlock sentence mandatory would result in around 4,250 interlocks being fitted each year – which at the same rate of prevention would mean at least 6,000 drink-drive events being prevented annually.

### **How much would the proposals for mandatory interlocks cost?**

While there will be costs in moving to the mandatory alcohol interlock sentence, reduced drink-drive reoffending will result in net cost savings.

### **What would stop someone getting a friend to start their interlocked car, then taking over the driving?**

International research shows that offenders tend to use interlocks once they are fitted.

There are procedures for blowing into the interlock that make it difficult to operate an interlock without the necessary training. The device also requests random re-tests once an offender has started driving. Interlocks can also be fitted with cameras should this prove necessary in the future.

Data from the interlock must be downloaded monthly and this can quickly show any tampering attempts, for example, disconnecting the device. Tampering is treated as a violation. Generally, there needs to be six months free of violations before an interlock can be removed at the end of the minimum 12 month period an interlock must be fitted.

### **What would stop someone with an alcohol interlock sentence from driving another vehicle without an interlock?**

Offenders who drive vehicles in contravention of their alcohol interlock sentence are subject to serious penalties and may extend the period that they need to have an alcohol interlock on their vehicle. Also, a vehicle owner who lends their vehicle to a repeat drink driver who breaches their interlock sentence faces the risk of their vehicle being seized and impounded by the Police for 28 days.

### **What would happen if a drink driver received another drink-drive conviction while subject to a mandatory alcohol interlock sentence?**

If a drink driver received another drink-drive conviction while subject to a mandatory alcohol interlock sentence, the mandatory interlock sentence would be cancelled and a new interlock sentence imposed. The offender would not receive any benefit for any previous time spent with an interlock fitted.

### **What would happen if a drink driver is convicted of other offences that carry mandatory disqualifications?**

An offender sentenced to a mandatory alcohol interlock would need to serve any existing disqualifications before they could have the interlock fitted.

If they were being sentenced at the same time for other offences that involved mandatory disqualifications, the court would have the discretion to make the offender serve a disqualification longer than 28 days before the interlock could be fitted.

However, there would be no discretion if the offence, or any other offence, involved causing injury or death. The alcohol interlock sentence would apply but the offender would have to serve the mandatory disqualification relating to the offence involving injury or death before fitting the alcohol interlock. The court may also impose other available penalties, including a prison sentence.

### **Are there any exceptions to the mandatory alcohol interlock sentence?**

There will be a limited number of situations where an exception to the mandatory interlock sentence might be needed. The main exceptions involve where an offender:

- does not have access to a vehicle to which an interlock can be fitted
- usually lives in a place that will not be serviced by an interlock provider and is more than 30 kilometres from the nearest interlock service centre, or lives on an island without an interlock service centre
- has a verified medical condition that prevents them from using an interlock.

Exceptions are also necessary for some drivers who have had their licence revoked, or who have never been licensed.

If an offender met the criteria for an exception, they would receive the alternative sentence of a mandatory disqualification, along with any other sentences such as fines or imprisonment that the court chose to impose.

**How will mandatory alcohol interlocks affect a judge's discretion to impose the best sentence to fit an offender's circumstance?**

Mandatory sentences must be imposed if the qualifying criteria are met. The courts will still have discretion to impose fines or imprisonment as well, if they consider it is appropriate given the offence.

Mandatory disqualifications have been used for drink-drive and other serious offending for many years. Extending the use of interlocks from the current low level will have significant benefits, both in protecting the public and preventing reoffending.

**When will these changes be made?**

The changes to the alcohol interlock sentence will require changes to the Land Transport Act 1998 through the standard process for amending Acts of Parliament. A Bill containing the new proposals is expected to be introduced in the near future.

The public and other interest groups will have an opportunity to make submissions on the proposals to the Select Committee considering the Bill.

The new mandatory sentence would be expected to start in 2017 should Parliament approve the Bill.

**Were any other changes to drink-drive penalties considered?**

The Ministry of Transport reviewed all of the available penalties for drink-drive offences. There is already a wide range of penalties available for drink-drive offences. The review found alcohol interlocks were the most effective means of addressing the behaviour of serious and repeat drink drivers who have failed to be deterred from offending by other penalties.