



*Tonga*

**TRAFFIC (ALCOHOL BREATH TESTS)  
NOTICE 2023**





## TRAFFIC (ALCOHOL BREATH TESTS) NOTICE 2023

### Arrangement of Sections

#### Notice

1	Short Title .....	5
2	Interpretation.....	5
3	Approval of passive breath-testing devices .....	6
4	Manner of carrying out passive breath screening tests by means of Dräger 6000 .....	6
5	Manner of carrying out passive breath screening tests by means of Dräger 7000 .....	6
6	Approval of breath screening devices.....	7
7	Manner of carrying out breath screening tests by means of Dräger 6000 .....	7
8	Manner of carrying out breath screening tests by means of Dräger 7000 .....	8
9	Approval of evidential breath-testing devices .....	10
10	Manner of carrying out evidential breath tests by means of Dräger 7000 .....	10
11	Repeal .....	11





# TRAFFIC (ALCOHOL BREATH TESTS) NOTICE 2023

## TRAFFIC ACT [CAP. 24.03]

*MADE UNDER SECTION 32 OF THE TRAFFIC ACT [CAP. 24.03]—*

### 1 Short Title

This Notice may be cited as the Traffic (Alcohol Breath Tests) Notice 2023.

### 2 Interpretation

(1) In this notice—

“**Dräger 6000**” means a Dräger Alcotest 6000, and includes any device having the trade name “Dräger”, “Drager”, or “Draeger”, and associated with the number 6000”;

“**Dräger 7000**” means a Dräger Alcotest 7000, and includes any device having the trade name “Dräger”, “Drager”, or “Draeger”, and associated with the number 7000”;

“**Enforcement officer**” in respect of a test carried out under this Notice means the Police officer who is conducting the test.”.

(2) For the purposes of sub-clause (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;
- (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 passive breath-testing devices**

The following devices are approved as kinds of passive breath-testing devices –

- (a) Dräger 6000; and
- (b) Dräger 7000.

### **4 Manner of carrying out passive breath screening tests by means of Dräger 6000**

Passive breath screening tests carried out by means of a Dräger 6000 device shall be carried out in the following manner –

- (a) step 1 (preliminary action) —
  - (i) the enforcement officer shall observe the display panel showing “READY”. If the display panel does not show “READY”, the officer shall depress the “OK” button briefly and repeat this step 1(i);
- (b) step 2 (passive breath screening test) —
  - (i) the person being tested shall speak into the device for a period to provide a specimen of breath sufficient for analysis, when instructed by the enforcement officer;
  - (ii) after the person being tested speaking, the enforcement officer shall observe the display panel of the device;
- (c) step 3 (results of test) —
  - (i) if the display panel shows “NO ALCOHOL”, the result indicates that the test is negative;
  - (ii) if the display panel shows “ALCOHOL”, the result indicates that there is alcohol present in that person’s breath.

### **5 Manner of carrying out passive breath screening tests by means of Dräger 7000**

Passive breath screening tests carried out by means of a Dräger 7000 device shall be carried out in the following manner –

- (a) step 1 (preliminary action) —
  - (i) the enforcement officer shall observe the display panel showing “READY”. If the display panel does not show “READY”, the officer shall depress the “OK” button briefly and repeat this step 1(i);
- (b) step 2 (passive breath screening test) —
  - (i) the person being tested shall speak into the device for a period to provide a specimen of breath sufficient for analysis, when instructed by the enforcement officer;

- (ii) after the person being tested speaking, the enforcement officer shall observe the display panel of the device;
- (c) step 3 (results of test) —
  - (i) if the display panel shows “NO ALCOHOL”, the result indicates that the test is negative;
  - (ii) if the display panel shows “ALCOHOL”, the result indicates that there is alcohol present in that person’s breath.

## 6 Approval of breath screening devices

The following devices are hereby approved as breath screening devices for the purposes of breath screening tests:

- (a) Dräger 6000; and
- (b) Dräger 7000.

## 7 Manner of carrying out breath screening tests by means of Dräger 6000

Breath screening tests carried out by means of a Dräger 6000 device shall be carried out in the following manner:

- (a) step 1 (preliminary action) —
  - (i) the enforcement officer shall observe the display panel showing “READY”. If the display panel does not show “READY”, the officer shall depress the “OK” button briefly and repeat this step 1(i);
  - (ii) the enforcement officer shall, before or after step 1(i), attach a mouthpiece to the breath inlet port of the device;
- (b) step 2 (breath screening test)—
  - (i) the person being tested shall blow through the mouthpiece at a pressure and for a period to provide a specimen of breath sufficient for analysis, when instructed by the enforcement officer;
  - (ii) after the person being tested stops blowing, the enforcement officer shall observe the display panel of the device;
  - (iii) if the display panel shows “Insufficient Volume”, it means that no specimen of breath sufficient for analysis has been provided. In that case, the enforcement officer may depress the “OK” button on the device, and repeat step 1(i) and this step 2, unless the officer believes the person being tested has failed or refused and will continue to fail or refuse to undergo the test without delay;
  - (iv) if the display panel shows “NO ALCOHOL” or “ALCOHOL”, during or after the purported breath screening test, it means the “OK” button has been depressed during the test. In that case the

enforcement officer shall depress the “OK” button on the device, and repeat step 1(i) and this step 2;

- (c) step 3 (results of test) —
  - (i) if the display panel shows a number between “0-149.9”, the result indicates that the proportion of alcohol in the person’s breath does not exceed 150 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will be a steady green for a short time (approximately 20 seconds or such shorter time as the officer may permit);
  - (ii) if the display panel shows a number between “150-249.9”, the result indicates that the proportion of alcohol in the person’s breath is equivalent to or exceeds 150 micrograms of alcohol per litre of breath but is less than 250 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will be a steady amber or red for a short time (approximately 20 seconds or such shorter time as the officer may permit);
  - (iii) if the display panel shows a number between “250-400”, the result indicates that the proportion of alcohol in the person’s breath exceeds 250 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will be a steady red for a short time (approximately 20 seconds or such shorter time as the officer may permit);
  - (iv) if the display panel shows a number in excess of “400”, the result indicates that the proportion of alcohol in the person’s breath exceeds 400 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will be a steady red for a short time (approximately 20 seconds or such shorter time as the officer may permit).

## **8 Manner of carrying out breath screening tests by means of Dräger 7000**

Breath screening tests carried out by means of a Dräger 7000 device shall be carried out in the following manner –

- (a) step 1 (preliminary action) —
  - (i) the enforcement officer shall observe the display panel showing “READY”. If the display panel does not show “READY”, the officer shall depress the “OK” button briefly and repeat this step 1(i);
  - (ii) the enforcement officer shall, before or after step 1(i), attach a mouthpiece to the breath inlet port of the device;
- (b) step 2 (breath screening test) —



- (i) the person being tested shall blow through the mouthpiece at a pressure and for a period to provide a specimen of breath sufficient for analysis, when instructed by the enforcement officer;
  - (ii) after the person being tested stops blowing, the enforcement officer shall observe the display panel of the device;
  - (iii) if the display panel shows “Insufficient Volume”, it means that no specimen of breath sufficient for analysis has been provided. In that case, the enforcement officer may depress the “OK” button on the device, and repeat step 1(i) and this step 2, unless the officer believes the person being tested has failed or refused and will continue to fail or refuse to undergo the test without delay;
  - (iv) if the display panel shows “NO ALCOHOL” or “ALCOHOL”, during or after the purported breath screening test, it means the “OK” button has been depressed during the test. In that case the enforcement officer shall depress the “OK” button on the device, and repeat step 1(i) and this step 2;
- (c) step 3 (results of test) —
- (i) if the display panel shows a number between “0-149.9”, the result indicates that the proportion of alcohol in the person’s breath does not exceed 150 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will be a steady green for a short time (approximately 20 seconds or such shorter time as the officer may permit);
  - (ii) if the display panel shows a number between “150-249.9”, the result indicates that the proportion of alcohol in the person's breath is equivalent to or exceeds 150 micrograms of alcohol per litre of breath but is less than 250 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will be a steady amber or red for a short time (approximately 20 seconds or such shorter time as the officer may permit);
  - (iii) if the display panel shows a number between “250-400”, the result indicates that the proportion of alcohol in the person's breath exceeds 250 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will be a steady red for a short time (approximately 20 seconds or such shorter time as the officer may permit);
  - (iv) if the display panel shows a number in excess of “400”, the result indicates that the proportion of alcohol in the person's breath exceeds 400 micrograms of alcohol per litre of breath. As a confirmation, the indicator light will be a steady red for a short time (approximately 20 seconds or such shorter time as the officer may permit).

## 9 Approval of evidential breath-testing devices

The following device is hereby approved as an evidential breath-testing device for the purposes of evidential breath tests –

- (a) Dräger 7000.

## 10 Manner of carrying out evidential breath tests by means of Dräger 7000

Evidential breath tests carried out by means of a Dräger 7000 shall be carried out in the following manner –

- (a) step 1 (preliminary action) —
  - (i) the enforcement officer shall observe the display panel showing “READY”. If the display panel does not show “READY”, the officer shall depress the “OK” button briefly and repeat this step 1(i);
  - (ii) the enforcement officer shall, before or after step 1(i), attach a mouthpiece to the breath inlet port of the device;
- (b) step 2 (evidential breath screening test) —
  - (i) the person being tested shall blow through the mouthpiece at a pressure and for a period to provide a specimen of breath sufficient for analysis, when instructed by the enforcement officer;
  - (ii) after the person being tested stops blowing, the enforcement officer shall observe the display panel of the device;
  - (iii) if the display panel shows “Insufficient Volume”, it means that no specimen of breath sufficient for analysis has been provided. In that case, the enforcement officer may depress the “OK” button on the device, and repeat step 1(i) and this step 2, unless the officer believes the person being tested has failed or refused and will continue to fail or refuse to undergo the test without delay;
- (c) step 3 (preliminary test result) —
  - (i) the display panel will show a digital numeric result which is the breath alcohol level for that test;
  - (ii) if the display panel shows a level between 150 and 250, an infringement offence has been committed;
  - (iii) if the display panel shows a level greater than 251 the result indicates that an offence has been committed;
  - (iv) the result will be shown on the display, or a result card or a 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.

**11 Repeal**

The Traffic (Alcohol Breath Tests) Notice [Cap. 24.03.04] is hereby repealed.

Made at Nuku‘alofa this 6<sup>th</sup> day of February 2023.

**Hon. Hu‘akavameiliku  
Minister for Police**