

STATES OF JERSEY



DRAFT ROAD TRAFFIC (No. 60) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 18th March 2014
by the Minister for Transport and Technical Services**

STATES GREFFE



Jersey

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REPORT

Background

The States, on 10th March 2010, agreed to support paragraph (a) of Deputy A.K.F. Green of St. Helier's Proposition P.4/2010, and asked the Minister for Transport and Technical Services to bring forward legislation '*to ensure that cyclists were required to wear a suitable safety helmet whilst cycling in the case of persons aged under the age of 18 years*'.

On 5th July 2011, the Minister, following discussions with Deputy Green, delivered a Statement to the Assembly confirming the draft legislation to be brought forward would apply to children under 14 years old.

Regulations

These draft Regulations amend the Road Traffic (Jersey) Law 1956 to give the Minister power, by Order, to require children to wear protective helmets when on a pedal cycle on a road or cycle track.

The Regulations also –

- create the offences that persons will commit in relation to a child who should be, but is not, wearing a cycle helmet. The level of fine for such offences is level 1 on the standard scale;
- give powers to Police Officers, among other things, to ask for the child's age, name and address and the parents' names and address(es). A person who fails to abide by a Police Officer's request commits an offence and is liable to fine of level 2 on the standard scale;
- amend Article 80 of the Law so that an Order under that Article can provide for authorised persons to test and inspect cycle helmets.

Supporting Order

Subject to the States adopting these Regulations, the Minister will amend the Pedal Cycles (Jersey) Order 1998 to provide for the wearing of helmets by children on pedal cycles or trailers drawn by pedal cycles. The Order will –

- require children to wear cycle helmets;

- describe cycle helmets and how they must be worn;
- set the age at which cycle helmets must be worn;
- provide for certain exceptions;
- provide for testing helmets;
- rename the Road Traffic (Protective Helmets) (Jersey) Order 2004 as the “Road Traffic (Motor Cycle Helmets) (Jersey) Order 2004”.

The exceptions the Minister would propose include children –

- riding on a sea beach;
- riding on a cycle track where the pedal cycle is controlled by an adult pedestrian;
- drawn in a trailer complying with the relevant standard, the children using safety belts and not exceeding the maximum height for the trailer;
- riding on “Bessie Bikes” on a cycle track;
- required to wear a turban.

To allow time to publicise the requirement to wear a cycle helmet and parents to purchase helmets for their children, the Order will come into effect 2 months after the Regulations are adopted.

Adopting the Regulations will also require the Minister for Economic Development to make an Order renaming the Consumer Safety (Protective Helmets) (Jersey) Order 2006 as the “Consumer Safety (Motor Cycle Helmets) (Jersey) Order 2006”.

Financial and manpower implications

The cost of publicising the measure is expected to cost in the region of £3,000.

There are no manpower implications arising.

Explanatory Note

These Regulations amend the Road Traffic (Jersey) Law 1956 (“the Law”) to give the Minister power to require children to wear protective helmets when on a pedal cycle on a road or cycle track.

Article 1 is the interpretation provision.

Article 2 amends the heading to Article 45 of the Law, to make clear that it only applies to motor cycle helmets.

Article 3 inserts a new Article 45A in the Law, to give the Minister the relevant power to make an Order. The Order can prescribe a description of protective helmet that must be worn and the manner in which it must be worn. The requirement can only be applied to a child of a prescribed age (a person is a child when under the age of 18, but children under the age of 10 cannot be guilty of offences). It can apply to a child riding or driving on a pedal cycle or a trailer drawn by a pedal cycle, on a road or cycle track. Under the definitions of those terms in Article 1 of the Law, “driving” means pedalling or otherwise propelling the cycle (including a pedestrian pushing it while someone is on it), or steering it, or doing both; “pedal cycle” means a bicycle, a tricycle or a cycle with 4 or more wheels, if it is not motorised; “trailer” means any vehicle drawn by the pedal cycle; “road” means any public road, any other road to which the public has access, any road administered by the Minister for Housing, any of the roads on the Rue des Près Trading Estate, any bridge over which a road passes and any sea beach; and “cycle track” means any way to which the public have access by pedal cycle only or by pedal cycle and on foot only.

Paragraphs (3), (4) and (5) of the new Article 45A create 3 offences in relation to a child breaching the requirement to wear a helmet, each offence carrying a fine of up to level 1 on the standard scale (currently £50 under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993). One offence is committed by the child himself or herself (if aged 10 or over, and below the prescribed upper age limit), one by either or both of the child’s parents if they cause or permit the breach without reasonable excuse, and one by any other person who is driving the cycle without reasonable excuse at the time of the breach (for example where the child is in a child seat, in a trailer or on a tandem). A person counts as a parent if they have parental responsibility for the child under the Children (Jersey) Law 2002 at the time of the breach.

Paragraph (6) of the new Article provides that a police officer, who reasonably suspects that a child is breaching (or is about to breach) the requirement to wear a helmet, has the following powers (in addition to the power under Article 51(1) of the Law to require the driver of the cycle to stop). The police officer may require the person who appears to be a child of the prescribed age to dismount from the cycle or trailer (or not to mount it, where the person appears to be about to do so). The police officer may require the apparent child to give his or her age, and to give his or her name and address, as well as the name and address of his or her parents. If someone else is driving the pedal cycle (or appears to be about to do so), the police officer may also require that person to give the information about the apparent child (to the extent of that person’s knowledge). Paragraph (7) makes it an offence to fail, without reasonable excuse, to comply with such a requirement. The offence carries a fine of up

to level 2 on the standard scale (currently £500 under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993).

Paragraph (8) of the new Article ensures that these are the only offences that are created in relation to the Order.

Article 4 amends Article 80 of the Law, so that an Order under that Article can include provision as to the testing and inspection, by persons authorized under the Order, of helmets required under the new Article 45A.

Article 5 names the Regulations and brings them into force 7 days after they are made. The requirements and offences will not apply until the relevant Order is made and brought into force, which could be on the coming into force of these Regulations or later.



Jersey

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Made [date to be inserted]

Coming into force [date to be inserted]

THE STATES, in pursuance of the Order in Council of 26th December 1851¹ and Article 92 of the Road Traffic (Jersey) Law 1956², have made the following Regulations –

1 Interpretation

In these Regulations “the Law” means the Road Traffic (Jersey) Law 1956³.

2 Article 45 amended

In the heading to Article 45 of the Law, for the word “Protective” there are substituted the words “Motor cycle”.

3 Article 45A inserted

After Article 45 of the Law there is inserted the following Article –

“45A Bicycle helmets for children

- (1) The Minister may by Order make provision requiring a child to wear a protective helmet of a prescribed description and in a prescribed manner, if the child –
 - (a) drives or rides on –
 - (i) a pedal cycle, or
 - (ii) a trailer drawn by a pedal cycle;
 - (b) does so on a road or cycle track; and
 - (c) is of a prescribed age.

- (2) A child commits an offence and is liable to a fine of level 1 on the standard scale if, without reasonable excuse, the child contravenes a requirement imposed on the child by an Order under paragraph (1).
- (3) A parent of a child commits an offence, and is liable to a fine of level 1 on the standard scale, if without reasonable excuse the parent causes or permits that child to contravene a requirement imposed on the child by an Order under paragraph (1).
- (4) A person commits an offence, and is liable to a fine of level 1 on the standard scale, if without reasonable excuse the person drives a pedal cycle when a child –
 - (a) rides on that pedal cycle or on a trailer drawn by that pedal cycle; and
 - (b) contravenes a requirement imposed on the child by an Order under paragraph (1).
- (5) For the purpose of paragraph (4) the child is to be treated as riding on the pedal cycle or trailer irrespective of whether the child is also driving the pedal cycle or trailer.
- (6) If a police officer reasonably suspects that a person is contravening or is about to contravene a requirement imposed on that person by an Order under paragraph (1), the police officer may require –
 - (a) that person to dismount from the pedal cycle or trailer, or not to mount it as the case may be;
 - (b) that person to give –
 - (i) his or her age, name and address, and
 - (ii) the name and address of his or her parent or parents; and
 - (c) any other person driving the pedal cycle, or appearing to be about to drive it, to give the information required under subparagraph (b) in respect of the suspected person, to the extent of his or her knowledge.
- (7) A person who without reasonable excuse fails to comply with a requirement under paragraph (6) commits an offence, and is liable to a fine of level 2 on the standard scale.
- (8) Article 84(4) does not apply to a contravention of an Order under this Article.
- (9) In this Article “parent”, in relation to a child, means a person who for the time being has parental responsibility for that child within the meaning of the Children (Jersey) Law 2002⁴.”.

4 Article 80 amended

In Article 80(1)(d) of the Law, after the words “this Article” there are inserted the words “or Article 45A”.

5 Citation and commencement

These Regulations may be cited as the Road Traffic (No. 60) (Jersey) Regulations 201- and come into force 7 days after they are made.

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- ¹ *chapter 23.350*
 - ² *chapter 25.550*
 - ³ *chapter 25.550*
 - ⁴ *chapter 12.200*