

STATES OF JERSEY

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DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS NO. 1) (HOME AFFAIRS TO TRANSPORT AND TECHNICAL SERVICES) (JERSEY) REGULATIONS 200-

**Lodged au Greffe on 14th March 2006
by the Chief Minister**

STATES GREFFE



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REPORT

1. Introduction

1. In October 2005 the States approved a report and proposition of the Policy and Resources Committee and agreed that '*political responsibility for the Driver and Vehicle Standards Department (DVS), and the functions undertaken by that Department, should be transferred from the Home Affairs Minister to the Transport and Technical Services Minister*' (P.194/2005). It was noted that the necessary legislative changes would be prepared and submitted to the States for their approval early in 2006.
2. Legislation to enable this transfer has now been prepared, and is being presented to the States for their approval.

2. Background

- 2.1 In July 2005 the States approved a report and proposition of the Policy and Resources Committee on '*Environment and Public Services: Establishment of Ministers and Departments*' (P.120/2005), and agreed that '*responsibility for on-Island transport policy should rest with a single minister ('Transport and Technical Services')*'.
- 2.2 In the report accompanying P.120/2005 it was noted that responsibility for the Driver and Vehicle Standards Department (DVS) rested with the Home Affairs Committee, and it was suggested that discussions should take place with that Committee in order to establish whether there should be any changes in this respect.
- 2.3 Following on from the States decision on P.120/2005, discussions took place between the Policy and Resources, Home Affairs, and Environment and Public Services Committees, and it was agreed that there were significant benefits to be derived from a transfer of DVS from Home Affairs to Transport and Technical Services.
- 2.4 The Policy and Resources Committee accordingly decided to bring forward a report and proposition in September 2005 which proposed the transfer of political responsibility for DVS from Home Affairs to Transport and Technical Services (*'Driver and Vehicle Standards: Proposed Transfer to Transport and Technical Services'*, P.120/2005). The benefits to be derived from this transfer were described in the report accompanying the proposition, and can be summarised as follows –
 - **Clarity of responsibility** – The Minister for Transport and Technical Services and his department have a designated responsibility for on-Island transport policy. This includes such areas as traffic management and planning, main roads maintenance, and car parking. Given that the work of DVS is centred entirely on on-Island transport matters, it is considered both desirable and logical for it to come under the umbrella of Transport and Technical Services.
 - **Practical benefits** – There are significant practical benefits to be derived from DVS moving to the Transport and Technical Services Department. This department includes services where officers already have an expertise in technical and transport matters, including traffic engineers. There will be ample opportunities for internal cross-departmental working, and this will allow technical specialists to work together when developing new policies.

- **Synergy** – There is a close synergy between the DVS regulatory policies, which relate to transport safety and matters such as width restrictions on vehicles, and the responsibilities of the highways authority in respect of safety and the free flow of traffic.
- 2.5 The proposition of the Policy and Resources Committee was adopted by the States in October 2005, and it was noted that the necessary legislative changes would be prepared and submitted to the States for their approval early in 2006.
- 3. Legislative changes**
- 3.1 The legislative changes have now been prepared and are attached for consideration by the Assembly. This draft legislation is consequential upon the States decision of October 2005 and its purpose is straightforward: to enable the transfer of responsibility for DVS from the Minister for Home Affairs to the Minister for Transport and Technical Services.
- 3.2 There are two minor areas where it has been agreed by both Transport and Technical Services and Home Affairs that it would be more appropriate if responsibility were to remain with the Minister for Home Affairs. These concern Articles 30 and 31 of the Road Traffic Law, where it is proposed that the Minister for Home Affairs should retain responsibility for approving devices for breath testing, and for prescribing the proportion of alcohol to be used in a breath sample. These are essentially policing matters, and it is therefore considered that they should remain with the Minister for Home Affairs.
- 3.3 Subject to approval by the States, it is proposed that the transfer of responsibility of DVS from the Minister for Home Affairs to the Minister for Transport and Technical Services should come into effect on 1st May 2006.
- 4. Financial and manpower implications**
- 4.1 The financial and manpower implications of this proposition are not considered to be significant.

Explanatory Note

Regulation 1 defines the transferring Minister and the receiving Minister.

Regulation 2 transfers the functions under the enactments listed in paragraph (1) from the transferring Minister to the receiving Minister. Paragraph (2) transfers the rights and liabilities connected with those functions. Paragraph (3) provides that a provision of a contract or other instrument is of no effect to the extent that it would otherwise purport to prevent the transfer effected by paragraph (2). Paragraph (4) provides that the transfer effected by paragraph (2) does not constitute a breach of contract or otherwise give rise to any remedy.

Regulation 3 gives effect to the Schedule, which amends enactments consequentially upon the transfer of functions.

Regulation 4 provides for the continuation of things done by the transferring Minister as if they had been done by the receiving Minister, and for the continuation of legal proceedings to which the transferring Minister is a party with the substitution of the receiving Minister in his or her place.

Regulation 5 provides for the citation and commencement of the Regulations.

The *Schedule* amends enactments consequentially upon the transfer.



DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 1) (HOME AFFAIRS TO TRANSPORT AND TECHNICAL SERVICES) (JERSEY) REGULATIONS 200-

Arrangement

Regulation

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- 2 Functions and connected rights and liabilities transferred
- 3 Consequential amendments of enactments
- 4 Transitional provisions
- 5 Citation and commencement

SCHEDE

ENACTMENTS AMENDED

- 1 Motor Traffic (Jersey) Law 1935
- 2 Motor Traffic (Third-Party Insurance) (Jersey) Law 1948
- 3 Motor Vehicle Races (Jersey) Law 1946
- 4 Motor Vehicle Registration (Jersey) Law 1993
- 5 Motor Vehicles (International Circulation) (Jersey) Regulations 1958
- 6 Road Traffic (Jersey) Law 1956
- 7 Motor Cars (Driving Instruction) (Jersey) Order 1982
- 8 Motor Vehicles (Construction and Use) (Jersey) Order 1998
- 9 Road Traffic (St. Lawrence) (Jersey) Order 1990
- 10 Traffic Signs (Jersey) Order 1968



DRAFT STATES OF JERSEY (TRANSFER OF FUNCTIONS No. 1) (HOME AFFAIRS TO TRANSPORT AND TECHNICAL SERVICES) (JERSEY) REGULATIONS 200-

Made

[date to be inserted]

Coming into force

[date to be inserted]

THE STATES, in pursuance of Article 28 of the States of Jersey Law 2005^[1], have made the following Regulations –

1 Interpretation

In these Regulations –

“receiving Minister” means the Minister for Transport and Technical Services;

“transferring Minister” means the Minister for Home Affairs.

2 Functions and connected rights and liabilities transferred

- (1) There shall be transferred to the receiving Minister the functions of the transferring Minister under –
 - (a) the Motor Traffic (Jersey) Law 1935^[2];
 - (b) the Motor Traffic (Third-Party Insurance) (Jersey) Law 1948^[3];
 - (c) the Motor Vehicle Races (Jersey) Law 1946^[4];
 - (d) the Motor Vehicle Registration (Jersey) Law 1993^[5];
 - (e) the Motor Vehicles (International Circulation) (Jersey) Regulations 1958^[6]; and
 - (f) the Road Traffic (Jersey) Law 1956^[7], with the exception of those under Articles 30 and 31.
- (2) All rights enjoyed and liabilities incurred by the transferring Minister in connection with the functions transferred by paragraph (1) shall be transferred to the receiving Minister and become the rights and liabilities of the receiving Minister.
- (3) A provision of a contract or other instrument that specifies that a right or liability of the transferring Minister is incapable of transfer shall, to the extent that it applies to a right or liability transferred by paragraph (2), be of no effect.
- (4) The operation of paragraph (2) shall not be regarded –
 - (a) as a breach of contract or confidence or otherwise as a civil wrong;
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of rights or liabilities; or

- (c) as giving rise to any remedy by a party to a contract or other instrument, as an event of default under any contract or other instrument or as causing or permitting the termination of any contract or other instrument, or of any obligation or relationship.

3 Consequential amendments of enactments

The Schedule shall have effect to amend enactments consequentially upon the transfers effected by Regulation 2.

4 Transitional provisions

- (1) The transfers effected by Regulation 2 shall not prejudice the operation of any appointment, approval, authorization, consent, delegation, determination, direction, instruction, requirement or other thing that is, before these Regulations come into force, made, given or done by the transferring Minister in relation to the functions, rights and liabilities so transferred, but such matter shall, if then in force, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by the receiving Minister.
- (2) Anything commenced before these Regulations comes into force by or under the authority of the transferring Minister may, so far as it relates to any of the functions, rights and liabilities transferred by Regulation 2, be carried on and completed by or under the authority of the receiving Minister.
- (3) Where, at the coming into force of these Regulations, any legal proceeding is pending to which the transferring Minister is a party and the proceeding has reference to any of the functions, rights and liabilities transferred by Regulation 2, the receiving Minister shall be substituted in the proceeding for the transferring Minister and the proceeding shall not abate by reason of the substitution.

5 Citation and commencement

These Regulations may be cited as the States of Jersey (Transfer of Functions No. 1) (Home Affairs to Transport and Technical Services) (Jersey) Regulations 200 and shall come into force on 1st May 2006.

SCHEDULE

(Regulation 3)

ENACTMENTS AMENDED

1 Motor Traffic (Jersey) Law 1935

- (1) A reference in this paragraph to an Article is to the Article of that number in the Motor Traffic (Jersey) Law 1935.
- (2) In Article 1(1), for the definition “Minister” there shall be substituted the following definition –

“‘Minister’ means the Minister for Transport and Technical Services;”.
- (3) Article A14 shall be revoked.
- (4) Article 36(4) shall be revoked.
- (5) In Article 42(3)(a), the words “or the Minister for Transport and Technical Services” shall be deleted.
- (6) In Article 44(2) –
 - (a) sub-paragraph (c) shall be revoked;
 - (b) for sub-paragraph (d) there shall be substituted the following sub-paragraph –

“(d) a person who is, or is acting as, an officer, employee or agent of the Minister, or performing a duty or exercising a power on behalf of the Minister; and”.
- (7) In Article 45 –
 - (a) in paragraphs (1), (2) and (3), for the words “a Minister” there shall be substituted the words “the Minister”;
 - (b) in paragraphs (1) and (2), for the words “that Minister” there shall be substituted the words “the Minister”;
 - (c) in paragraph (7), the word “appropriate” shall be deleted.
- (8) In Article 46(1) –
 - (a) the words “or, as the case may be, the Minister for Transport and Technical Services,” shall be deleted;
 - (b) for the words “either Minister” there shall be substituted the words “the Minister”.

2 Motor Traffic (Third-Party Insurance) (Jersey) Law 1948

In the Motor Traffic (Third-Party Insurance) (Jersey) Law 1948 –

- (a) in Article 1(1) –
 - (i) the definition “Committee” shall be deleted,
 - (ii) after the definition “insurance disc” there shall be inserted the following definition –

“‘Minister’ means the Minister for Transport and Technical Services;”;
- (b) in the following places and provisions, for the word “Committee”, in each place that it appears, there shall be substituted the word “Minister” –
 - (i) in Article 1(1), in the definition “prescribed”,
 - (ii) Article 2(4)(b),
 - (iii) Article 4(1), (2) and (3),
 - (iv) Article 17(1),

- (v) Article 18(4),
- (vi) Article 19(1).

3 Motor Vehicle Races (Jersey) Law 1946

In the Motor Vehicle Races (Jersey) Law 1946 –

- (a) in Article 1, for the definition “Minister” there shall be substituted the following definition –
“ ‘Minister’ means the Minister for Transport and Technical Services;”;
- (b) in Article 2(1), the words “and after consultation with the Minister for Transport and Technical Services,” shall be deleted.

4 Motor Vehicle Registration (Jersey) Law 1993

In Article 1(1) of the Motor Vehicle Registration (Jersey) Law 1993, for the definition “Minister” there shall be substituted the following definition –

“ ‘Minister’ means the Minister for Transport and Technical Services;”.

5 Motor Vehicles (International Circulation) (Jersey) Regulations 1958

In the Motor Vehicles (International Circulation) (Jersey) Regulations 1958 –

- (a) before Article 1 there shall be inserted the following Article –

“A1 Interpretation

In these Regulations “Minister” means the Minister for Transport and Technical Services.”.

- (b) in the following provisions the words “for Home Affairs” shall be deleted –
 - (i) Regulation 1(1), (2), (3), (4), (5), (6), (7) and (8),
 - (ii) Regulation 2(5),
 - (iii) Schedule 3, paragraphs 2, 3 and 4, in each place where the words appear.

6 Road Traffic (Jersey) Law 1956

- (1) In this paragraph a reference to an Article is to the Article of that number in the Road Traffic (Jersey) Law 1956.
- (2) In Article 1(1) –
 - (a) in the definition “licensing authority” the words “for Home Affairs” shall be deleted;
 - (b) after the definition “medical exemption certificate” there shall be inserted the following definition –
“ ‘the Minister’, without further description, means the Minister for Transport and Technical Services;”.
- (3) In the following Articles the words “for Home Affairs”, in each place that they appear, shall be deleted –
 - (a) Article 5(1);
 - (b) Article 6(1), (3), (4) and (5);
 - (c) Article 7(1);
 - (d) Article 8(2);

- (e) Article 12;
 - (f) Article 20(3)(d) and (5);
 - (g) Article 43(2), (3) and (4);
 - (h) Article 71(1), (3) and (4);
 - (i) Article 74(3);
 - (j) Article 78(3) and (4);
 - (k) Article 85, in the heading and paragraphs (1) and (2).
- (4) In the following Articles the words “for Transport and Technical Services”, in each place that they appear, shall be deleted –
- (a) Article 21(2);
 - (b) Article 40(3);
 - (c) Article 46(1);
 - (d) Article 58(1);
 - (e) Article 60(1), (2), (3), (4) and (5);
 - (f) Article 62(1);
 - (g) Article 63(1), (2) and (3);
 - (h) Article 64(1), (2), (3), (4), (5) and (6);
 - (i) Article 65(5);
 - (j) Article 68(2)(a);
 - (k) Article 69(1) and (7);
 - (l) Article 72(1), (2), (3), (5) and (6).
- (5) In the following Articles for the words “Provision may be made by Order” there shall be substituted the words “The Minister may by Order make provision” –
- (a) Article 8(4);
 - (b) Article 20(2) and (7);
 - (c) Article 41(1);
 - (d) Article 44(2);
 - (e) Article 45(1);
 - (f) Article 56(1);
 - (g) Article 59(1);
 - (h) Article 69(2);
 - (i) Article 77(1);
 - (j) Article 80(1), (2) and (3).
- (6) In Article 42(1) after the words “Except as provided by Order” there shall be inserted the words “made by the Minister”.
- (7) In Article 42(3) for the words “Provisions may be made by Order” there shall be substituted the words “The Minister may by Order make provisions”.
- (8) In Article 84 –
- (a) for paragraph (1) there shall be substituted the following paragraph–
 - “(1) The Minister may make Orders to prescribe anything which may be prescribed under this Law and generally for the purpose of carrying this Law into effect.”;
 - (b) paragraph (1AA) shall be deleted;
 - (c) in paragraph (1A) the words “for Home Affairs”, in each place that they appear, shall be

deleted.

7 Motor Cars (Driving Instruction) (Jersey) Order 1982

In Schedule 1 to the Motor Cars (Driving Instruction) (Jersey) Order 1982^[8], in Form 3, for the words “MINISTER FOR HOME AFFAIRS” there shall be substituted the words “MINISTER FOR TRANSPORT AND TECHNICAL SERVICES”.

8 Motor Vehicles (Construction and Use) (Jersey) Order 1998

In the Motor Vehicles (Construction and Use) (Jersey) Order 1998^[9] –

- (a) in Article 1(1), after the definition “maximum total design axle weight” there shall be inserted the following definition –
 - “ ‘Minister’ means, except in Article 74(2)(c)(ii), the Minister for Transport and Technical Services;”;
- (b) in Article 108(2)(e), the words “for Transport and Technical Services” shall be deleted.

9 Road Traffic (St. Lawrence) (Jersey) Order 1990

In Articles 11(1) and (2) and 14 of the Road Traffic (St. Lawrence) (Jersey) Order 1990^[10], for the words “Minister for Home Affairs” there shall be substituted the words “Minister for Transport and Technical Services”.

10 Traffic Signs (Jersey) Order 1968

In the definition “primary route” in Article 1(1) and in Article 18(1), (2) and (3), of the Traffic Signs (Jersey) Order 1968^[11] for the words “Minister for Home Affairs” there shall be substituted the words “Minister for Transport and Technical Services”.

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- [1] chapter 16.800
 - [2] chapter 25.200
 - [3] chapter 25.250
 - [4] chapter 25.300
 - [5] chapter 25.350
 - [6] chapter 25.400.50
 - [7] chapter 25.550
 - [8] chapter 25.550.04
 - [9] chapter 25.550.08
 - [10] chapter 25.550.54
 - [11] chapter 25.550.68