

STATES OF JERSEY



DRAFT ROAD TRAFFIC (No. 63) (JERSEY) REGULATIONS 201-

Lodged au Greffe on 17th July 2017
by the Minister for Infrastructure

STATES GREFFE



Jersey

DRAFT ROAD TRAFFIC (No. 63) (JERSEY) REGULATIONS 201-

REPORT

Background

The purpose of these draft Regulations is to make some amendments and rectify a number of inconsistencies in the [Road Traffic \(Jersey\) Law 1956](#) (“the 1956 Law”), which have come to light since the enactment of the [Road Traffic \(No. 62\) Jersey Regulations 2015](#) (“the 2015 Regulations”). The 2015 Regulations introduced a number of new serious road traffic offences, namely, causing serious injury by dangerous driving, causing death by careless driving, causing serious injury by careless driving and causing serious injury by careless driving while under the influence of drink or drugs (“the new offences”).

Discussion

Following discussions with the Magistrate, it has been concluded that with regard to causing serious injury by careless driving, it is possible to commit that offence in circumstances where compulsory disqualification may be too harsh. It was also concluded that the definition of serious injury should not include reference to hospitalisation. These draft Regulations will therefore amend the Law accordingly, whilst also addressing the inconsistencies created by the 2015 Regulations. The changes that would be made by the draft Regulations include amendments which –

- make disqualification from driving discretionary instead of mandatory, for an offence of causing serious injury by careless driving. Under the existing provision conviction for this offence automatically leads to a minimum of 12 months disqualification;
- widen the scope which the Courts have to consider whether an injury constitutes a serious injury, but remove the reference to hospitalisation, for the purposes of some of the new offences;
- increase the maximum term of imprisonment for offences of driving or being in charge of a motor vehicle whilst over the prescribed alcohol limit, or failing to provide a specimen for analysis and refusing to consent to analysis of a specimen, from six months to 12 months, so that it is the same as for the offence of driving whilst unfit through drink or drugs;
- give the Court power to order an offender, following disqualification for any of the new offences, other than causing serious injury by careless driving, to remain disqualified until he or she has passed a new driving test;

- add the new offences to those for which disqualification from driving and endorsement of driving licences may be ordered;
- vary the alternative offences for which a person may be convicted on a charge of influence of drink or drugs or driving or attempting to drive, or being in charge of, a motor vehicle whilst having an alcohol concentration above the prescribed limit; and
- add the new offences to the list of offences which cannot be dealt with at a Parish Hall Inquiry.

The Attorney General has been asked to advise upon, and has approved, the changes to the penalties for offences which would be made by the draft Regulations.

Collective Responsibility under Standing Order 21(3A)

The Council of Ministers has a single policy position on this proposition, and as such, all Ministers, and the Assistant Ministers for Infrastructure, are bound by the principle of collective responsibility to support the proposition, as outlined in the Code of Conduct and Practice for Ministers and Assistant Ministers ([R.11/2015](#) refers).

Financial and manpower implications

There are no additional financial and manpower implications arising from the proposed draft amending Regulations.

Explanatory Note

These Regulations make further amendments to the Road Traffic (Jersey) Law 1956 (the “1956 Law”) and have the effect of correcting some anomalies in connection with some of the more serious driving offences.

Regulation 1 provides that it is the 1956 Law that is being amended.

Regulation 2 amends references in Articles 25 and 27 to remove redundant references to the offences being motoring offences.

Regulation 3 removes the requirement for driving disqualification to be mandatory in the case of the offence of causing serious injury by careless driving.

Regulation 4 amends the definition of “serious injury”, which applies to certain driving offences, so as to remove the element relating to hospital stay and to make the other parts of the definition no longer exclusive.

Regulation 5 increases the penalties for the offences of driving or being in charge of a motor vehicle whilst having an alcohol concentration above the prescribed limit (Article 28(1)), failing to provide a specimen for analysis (Article 30(7)) and failing to give permission for a laboratory test of a specimen of blood (Article 30B(4)) from 6 months to 12 months.

Regulation 6 amends Article 35 so as to empower the court to order a new driving test following a disqualification in the case of the recently added offences of causing serious injury by dangerous driving (Article 23A), causing death by careless driving (Article 25A), causing serious injury by careless driving (Article 26A) and causing serious injury by careless driving when under the influence of drink or drugs (Article 26B).

Regulation 7 varies the alternative verdicts for the offences under Articles 27 and 28 which relate to driving or attempting to drive, or being in charge of, a motor vehicle when under the influence of drink or drugs and driving or attempting to drive, or being in charge of, a motor vehicle whilst having an alcohol concentration above the prescribed limit.

Regulation 8 adds the offences mentioned in Regulation 6 to the list of offences in Schedule 1 for which disqualification or endorsement may be ordered and refines the description of the offences contained in Articles 27 and 28.

Regulation 9 also adds these offences to Schedule 3 which lists the offences in respect of which there is no power to levy fines summarily, so as to make clear that the offenders cannot be dealt with at a Parish Hall Inquiry. There is a similar revision of the description of the Articles 27 and 28 offences.

Regulation 10 names the Regulations and provides for them to come into force 7 days after they are made.



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Arrangement

Regulation

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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 Amendment of the Road Traffic (Jersey) Law 1956

The Road Traffic (Jersey) Law 1956³ is amended in accordance with these Regulations.

2 Articles 25 and 27 amended

In Articles 25(2) and 27(2) the words “, such offence being a motoring offence,” shall be deleted.

3 Article 26A amended

In Article 26A, paragraph (4) shall be deleted.

4 Article 26C amended

In Article 26C –

- (a) for the words “means an injury” there shall be substituted the words “includes an injury”;
- (b) paragraph (a) shall be deleted.

5 Articles 28 and 30 amended

In Articles 28(1), 30(7) and 30B(4) for the words “6 months” there shall be substituted the words “12 months”.

6 Article 35 amended

In Article 35(1) for the words “25, 26” there shall be substituted the words “23A, 25, 25A, 26, 26A, 26B”.

7 Article 36 amended

In the table in Article 36(1), for the items and entries relating to Articles 27 and 28 there shall be substituted the following items and entries –

“driving or attempting to drive when unfit to drive through drink or drugs (Article 27)	being in charge of a vehicle when unfit to drive through drink or drugs (Article 27)
driving or attempting to drive with alcohol concentration above prescribed limit (Article 28(1)(a))	being in charge of a motor vehicle with alcohol concentration above prescribed limit (Article 28(1)(b))
	Driving or attempting to drive, or being in charge of, a vehicle when unfit to drive through drink or drugs (Article 27)
being in charge of a motor vehicle with alcohol concentration above prescribed limit (Article 28(1)(b))	being in charge of a vehicle when unfit to drive through drink or drugs (Article 27)”.

8 Schedule 1 amended

In item C of Schedule 1 –

- (a) there shall be inserted in the correct numerical and alphabetical order, according to the offences, the following entries –

“Article 23A	(causing serious injury by dangerous driving);
Article 25A	(causing death by careless driving);
Article 26A	(causing serious injury by careless driving);
Article 26B	(causing serious injury by careless driving when under the influence of drink or drugs);”;

- (b) for the entry relating to Article 27 there shall be substituted the following entries –

“Article 27	(Driving, or attempting to drive, or being in charge of a vehicle, when unfit to drive through drink or drugs)”;
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- (c) in the entry relating to Article 28(1) after the word “driving” there shall be inserted the words “, or attempting to drive,”.

9 Schedule 3 amended

In Schedule 3 –

- (a) there shall be inserted in the correct numerical and alphabetical order, according to the offences, the following entries –

“Article 23A – causing serious injury by dangerous driving;
Article 25A – causing death by careless driving;
Article 26A – causing serious injury by careless driving;
Article 26B – causing serious injury by careless driving when under the influence of drink or drugs;”;

- (b) for the entry relating to Article 27 there shall be substituted the following entries –

“Article 27 Driving, or attempting to drive, or being in charge of a vehicle, when unfit to drive through drink or drugs”;

- (c) in the entry relating to Article 28(1) after the word “driving” there shall be inserted the words “, or attempting to drive,”.

10 Citation and commencement

- (1) These Regulations may be cited as the Road Traffic (No. 63) (Jersey) Regulations 201- and shall come in force 7 days after they are made.
- (2) These Regulations shall not have effect in relation to any offence committed before the day on which they come into force.

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