

STATES OF JERSEY



Jersey

DRAFT ROAD TRAFFIC (No. 67) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 19th April 2021
by the Minister for Infrastructure
Earliest date for debate: 8th June 2021**

STATES GREFFE

REPORT

This report explains the policy reasons for the draft Road Traffic (No. 67) (Jersey) Regulations 202- (“the draft Regulations”) which would make amendments to the [Road Traffic \(Jersey\) Law 1956](#) (“the Law”).

The Department was approached by the Comité des Connétables for assistance after it was discovered that a number had not been processing parking fines correctly. An interim solution was agreed with the Law Officers and implemented whilst a permanent solution was researched. Following discussions with the Law Officers and the Principal Legislative Drafter a solution has been produced which will de-criminalise parking enforcement.

The proposal to de-criminalise parking enforcement will provide a solution that eases the current burden on the Honorary Police of each Parish who currently have to hold a Parish Hall Enquiry for each unpaid parking infraction – in the case of St. Helier this could mean a potential for around 15,000 enquiries annually just for parking on top of the enquiries for all other offences.

All parking offences will change to a civil enforcement process with the exception of that for leaving a vehicle on a road in a position likely to cause danger or obstruction as the Court have the ability to endorse a licence or seize the vehicle concerned for this offence.

The new regime will introduce a number of changes –

- A formal appeal process.
- The appointment of an adjudicator for each enforcement authority to consider appeals.
- The reasons for which an appeal can be upheld.
- A maximum fine level which is set by the Minister by Order.
- The responsibility for a parking penalty will lie with the registered owner of the vehicle concerned.
- Sets out the process for the Petty Debts Court to handle cases that come before it and the reasons for upholding these in favour of the enforcement authority.

The application of fines collected remains unchanged – for on street these are split equally between the roads account of the relevant Parish and the States General Revenue and for car park fines to the benefit of the enforcement authority.

In order to deal with the backlog of cases which were not able to be issued summonses to the Magistrates’ Court due to Covid-19 restrictions, the new Regulation will be applied retrospectively to all unpaid parking infractions which have not received a summons to the Magistrates’ Court.

Financial and manpower implications

There will be costs incurred by the 12 Parishes for the reprinting of handwritten tickets and they will need to appoint adjudicators to consider appeals. There is no manpower implication for the Government. Changes to the car park administration system used are being assessed.

EXPLANATORY NOTE

These Regulations further amend the Road Traffic (Jersey) Law 1956 (“the Law”), chiefly to enable the introduction of penalty charges in respect of parking contraventions in place of criminal proceedings.

Regulation 2 makes a minor amendment to permit the parking of pedal cycles in designated cycle racks on footways.

Regulation 3 inserts a new Article 68A into the Law enabling Orders to provide for a penalty charge to be imposed in respect of certain parking offences defined in the new Article. A penalty charge is recoverable in proceedings in the Petty Debts Court whose decision is final. The person liable to pay the penalty charge is, the case of a motor vehicle, the person registered as the owner of the vehicle concerned. The detail of the penalty charge scheme is to be provided for by Order.

Regulation 4 names the Regulations and provides for them to come into force 7 days after they are made.



Jersey

DRAFT ROAD TRAFFIC (No. 67) (JERSEY) REGULATIONS 202-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES make these Regulations under Order in Council of 26th December 1851¹ and Article 92 of the Road Traffic (Jersey) Law 1956² –

1 Amendment of Road Traffic (Jersey) Law 1956

The Road Traffic (Jersey) Law 1956³ is amended as set out in these Regulations.

2 Article 40 amended

In Article 40(1)(a) after “causes a vehicle” there is inserted “(other than a pedal cycle placed in a place reserved for pedal cycles)”.

3 Article 68A inserted

After Article 68 there is inserted –

“68A Penalty charges in respect of parking contraventions

- (1) Orders may provide for a penalty charge to be imposed in respect of a parking contravention and where such an Order is in force in respect of any parking contravention, no criminal proceedings may be brought in respect of that parking contravention.
- (2) The penalty charge is recoverable as a debt due to the enforcement authority by proceedings instituted in the Petty Debts Court and despite Article 3 of the Petty Debts Court (Miscellaneous Provisions) (Jersey) Law 2000⁴ the decision of the Court in such proceedings is final.
- (3) The person liable to pay the penalty charge is the registered owner of the vehicle to which the parking contravention relates and that owner may recover the amount of the charge from the person who was in charge of the vehicle at the time of the contravention.
- (4) Orders under this Article may provide for any of the following –

- (a) the maximum levels of penalty charges;
 - (b) enforcement authorities to impose penalty charges and set the amount of any penalty charge subject to the prescribed maxima;
 - (c) the publication of the amount of penalty charges;
 - (d) the contents of any notice advising on the imposition of a penalty charge;
 - (e) the means of issuing a penalty charge notice, which may include affixing the notice to the vehicle or sending it by post;
 - (f) exemptions from penalty charges;
 - (g) discounts or surcharges in relation to penalty charges, which may be set by an enforcement authority;
 - (h) challenges to penalty charges;
 - (i) transitional and savings provisions in respect of parking contraventions occurring before the commencement of the first Order made under this Article;
 - (j) such other matters as the Minister considers to be incidental to, or necessary or expedient for, the purposes of the Order.
- (5) An enforcement authority may delegate –
- (a) any of its functions under such an Order to another enforcement authority with that other authority's agreement; and
 - (b) its power under the Order to issue penalty charge notices to any person or class of persons.
- (6) A person who –
- (a) removes or interferes with a penalty charge notice (not being the registered owner or person in charge of the vehicle to which that notice relates, or a person acting on behalf of an enforcement authority); or
 - (b) makes a representation that is false in a material particular in connection with a penalty charge or any challenge to a penalty charge,
- is guilty of an offence and liable to a fine of level 2 on the standard scale.
- (7) The amount of a penalty charge is to be applied as follows –
- (a) where it relates to a parking contravention occurring on a road, footpath or cycle track, half for the benefit of the annual income of the States and half for the benefit of the parish in which the parking contravention occurred, to be applied towards the cost of maintaining by-roads of the parish;
 - (b) where it relates to a parking contravention occurring in a public parking place, for the benefit of the enforcement authority responsible for that parking place.
- (8) In this Article –

“enforcement authority”, in the case of a parking contravention relating to –

- (a) a road, footpath or cycle track means the Connétable of the parish in which the road is situated;
- (b) a public parking place –
 - (i) administered by a parish, means the Connétable of that parish,
 - (ii) administered by an administration for which the Minister for Education is responsible, means the Minister for Education,
 - (iii) administered by an administration for which the Minister for Economic Development, Tourism, Sport and Culture is responsible, means the Minister for Economic Development, Tourism, Sport and Culture, or
 - (iv) administered by an administration for which the Minister for Infrastructure is responsible, means the Minister for Infrastructure;

“parking contravention” means –

- (a) an offence under Article 40(1) of permitting or causing a vehicle to remain at rest on any footway or cycle track in contravention of Article 40(1);
- (b) a contravention of an Order made under Article 59;
- (c) a contravention of an Order under Article 62(1) prohibiting or restricting the waiting of vehicles, or the loading or unloading of vehicles, on roads or parts of roads; or
- (d) an offence under Article 65(2);

“penalty charge” means a penalty charge imposed for a parking contravention by an Order under this Article;

“registered owner”, in relation to a motor vehicle, means the person for the time being entered in the register of motor vehicles described in Article 3 of the Motor Vehicle Registration (Jersey) Law 1993⁵ as the owner of the vehicle and in relation to any other vehicle means the owner.”.

4 Citation and commencement

These Regulations may be cited as the Road Traffic (No. 67) (Jersey) Regulations 202- and come into force 7 days after they are made.

ENDNOTES

Table of Endnote References

<u>1</u>	<i>chapter 23.350</i>
<u>2</u>	<i>chapter 25.550</i>
<u>3</u>	<i>chapter 25.550</i>
<u>4</u>	<i>chapter 07.615</i>
<u>5</u>	<i>chapter 25.350</i>