

STATES OF JERSEY



Jersey

DRAFT ROAD TRAFFIC (No. 64) (JERSEY) REGULATIONS 202-

**Lodged au Greffe on 3rd February 2020
by the Minister for Infrastructure**

STATES GREFFE

REPORT

This report details the reasons behind the draft Regulations amendments proposed to the [Road Traffic \(Jersey\) Law 1956](#) (“the Road Traffic Law”) in light of the proposed new Order to replace the [Motor Vehicles \(Wearing of Seat Belts by Children\) \(Jersey\) Order 1998](#). The proposed new Order is attached in the Appendix to this Report, for illustration purposes and is intended to be made after these Regulations are made.

[Proposition 27/2008](#) – “Rear seat belts and child booster seats” set out the requirements to align the current Motor Vehicles (Wearing of Seat Belts by Children) (Jersey) Order 1998, to match the regulations adopted in the UK in 2006 to implement the provisions of EU Directive 2003/20 relating to the compulsory use of safety belts in vehicles.

Drafting of the amendments have been completed using the original instructions as issued in 2008 and updated information from the changes to UK legislation to ensure that the policy position is consistent. The Regulations amend the Order making powers in the Road Traffic Law regarding use of child seat belts. The overall aim is to broaden the circumstances under which a child under the age of 14 years is required under the Order to wear a seat belt appropriate to their age, and to ensure effective restraint of vehicle occupants who might not otherwise be appropriately restrained by seat belts alone. The changes will also ensure that the legal inconsistencies that currently exist between UK/EU and Jersey law are removed, which will preclude the element of confusion that at times exists when residents travel by vehicle between the Island and UK/France.

The Regulations also include a new definition of “bus” (which includes coaches) in the Road Traffic Law and insert a new provision which requires the operator of a bus or coach equipped with seat belts to notify passengers of the requirement to wear them.

An update to the definition of medical exemption certificates is included in the Regulations to allow certificates issued in the EU, which satisfy the legal requirement to exempt a child from wearing a seat belt, as well as those issued in Jersey.

The level of penalties associated with not complying with the requirements of wearing seat belts and driving in contravention of the prohibition were considered to be inconsistent with other penalties within the Road Traffic Law. Therefore, the level of fine has been raised from a maximum fine of Level 1 (£200) to Level 2 (£1,000) on the standard scale.

Financial and manpower implications

There are no additional costs or manpower implications for the Government arising from the adoption of these draft amending Regulations.

APPENDIX TO REPORT



MOTOR VEHICLES (WEARING OF SEAT BELTS BY CHILDREN) (JERSEY) ORDER 201-

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Motor Vehicles (Wearing of Seat Belts by Children) (Jersey) Order 201-

Article 1



Jersey

MOTOR VEHICLES (WEARING OF SEAT BELTS BY CHILDREN) (JERSEY) ORDER 201-

Made [date to be inserted]

Coming into force [date to be inserted]

THE MINISTER FOR INFRASTRUCTURE makes this Order under Articles 42, 77 and 84 of the Road Traffic (Jersey) Law 1956 –

1 Interpretation

(1) In this Order –

“adult belt” means a prescribed seat belt within the meaning of Article 2 of the Motor Vehicles (Wearing of Seat Belts by Adults) (Jersey) Order 2009;

“appropriate seat belt” is construed in accordance with paragraph (2);

“child” means a person under the age of 14 years;

“child restraint” means a child restraint within the meaning of Article 49(11) of the Construction and Use Order which is –

(a) marked in accordance with Article 49(7) of the Construction and Use Order or marked in accordance with paragraphs 4, 5.4 and 5.6 of Regulation Number 129; or

(b) fitted in a vehicle and consists of or is comprised in a restraint system, being a restraint system –

(i) which is of a type which has been approved by a member State of the European Union for use by a child, and

(ii) in respect of which, by virtue of such approval, the requirements of the law of that State corresponding to this Order would be met were it to be worn by a child when travelling in that vehicle in that member State;

“Construction and Use Order” means the Motor Vehicles (Construction and Use) (Jersey) Order 1998;

“disabled person’s belt”, “lap belt”, “seat”, “seat belt” and “3-point belt” have the same meaning as in Article 49(11) of the Construction and Use Order;

“front”, in relation to a vehicle, means every part of the vehicle forward of the transverse vertical plane passing through the rearmost part of the driver’s seat except, where a vehicle has a deck which is above the level of the driver’s head when the driver is in the normal driving position, no part

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of the vehicle above the level of that deck (whether or not forward of the transverse vertical plane);

“front seat”, in relation to a vehicle, means a seat which is wholly or partially in the front of the vehicle;

“large child” means a child who is not a small child;

“Law” means the Road Traffic (Jersey) Law 1956;

“light goods vehicle” means a goods vehicle which –

- (a) has 4 or more wheels; and
- (b) has a maximum laden weight not exceeding 3.5 tonnes;

“passenger car” means a motor vehicle which –

- (a) is constructed or adapted for the use for the carriage of passengers and is not a goods vehicle;
- (b) has no more than 8 seats in addition to the driver’s seat;
- (c) has 4 or more wheels; and
- (d) has a maximum laden weight not exceeding 3.5 tonnes;

“Regulation Number 129” means Regulation Number 129 of the Economic Commission for Europe of the United Nations on uniform provisions concerning the approval of enhanced Child Restraint Systems used on board of motor vehicles;

“restraint system” means a system combining a seat fixed to the structure of the vehicle by appropriate means and a seat belt for which at least one anchorage point is located on the seat structure;

“small child” means a child who is –

- (a) under the age of 12 years; and
- (b) under 135 centimetres in height.

(2) For the purposes of this Order, a seat belt is appropriate –

- (a) in relation to a small child, if it is a child restraint of a description prescribed for a child of the child’s height and weight by Article 2(2); or
- (b) in relation to a large child, if it is –
 - (i) a child restraint of a description prescribed for a child of the child’s height and weight by Article 2(2), or
 - (ii) an adult belt.

2 Description of seat belts to be worn by children and requirement regarding airbags

- (1) For a child of any particular height and weight travelling in a motor vehicle, the description of seat belt prescribed for the purposes of Article 42(1) of the Law to be worn by the child is –
 - (a) if the child is a small child, a child restraint of a description specified in paragraph (2)(a), (b) or (c); or
 - (b) if the child is a large child, a child restraint of a description specified in paragraph (2)(a) or (c) or an adult belt;

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- (2) The descriptions of seat belt referred to in paragraph (1) are –
- (a) a child restraint with the marking required under Article 49(7) of the Construction and Use Order if the marking indicates that it is suitable for the child's weight and either indicates that it is suitable for the child's height or contains no indication as respects height;
 - (b) a child restraint which would meet the requirements of the law of any member State of the European Union corresponding to this Order were it to be worn by that child when travelling in that vehicle in that member State; and
 - (c) a child restraint with markings required under paragraphs 4, 5.4 and 5.6 of Regulation Number 129, if the markings indicate that it is suitable for the child's height, weight and age.
- (3) In relation to a small child sitting in the front of a motor vehicle other than a bus, if the passenger seat in which the child is sitting is protected by an airbag and the child is wearing a rear-facing child restraint, the prescribed requirement relating to the use of that seat belt for the purposes of Article 42(1) of the Law is that the airbag must be –
- (a) deactivated; or
 - (b) designed or adapted in such a way that it cannot inflate enough to pose a risk of injury to the child.

3 Provision of seat belts

- (1) A seat is to be regarded as provided with a seat belt which is a child restraint if the child restraint is –
- (a) fixed in such a position that it can be worn by an occupier of that seat; or
 - (b) elsewhere in or on the vehicle but –
 - (i) could readily be fixed in such a position without the aid of tools, and
 - (ii) is not being worn by a child for whom it is appropriate and who is occupying another seat.
- (2) A seat is to be regarded as provided with a seat belt which is an adult belt if the adult belt is fixed in such a position that it can be worn by the occupier of that seat unless that belt –
- (a) has an inertia reel mechanism which is locked as a result of the vehicle being, or having been, on a steep incline; or
 - (b) does not comply with the requirements of Article 50 of the Construction and Use Order.

4 Exemptions

- (1) The prohibition in Article 42(1) of the Law does not apply to a child riding in a vehicle that falls within a description specified in column 2 of the Table in paragraph (2), if the conditions in column 3 in the same row as the item number specified in column 1 for that description of vehicle are met.
- (2)

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TABLE		
1 Item	2 Description of vehicle	3 Conditions
1.	passenger car or light goods vehicle	<p>(a) the child is a small child aged 3 years or more;</p> <p>(b) the child is riding in the rear of the vehicle;</p> <p>(c) the use of child restraints by the child occupants of 2 seats in the rear of the vehicle prevents the use of an appropriate seat belt for the child;</p> <p>(d) no appropriate seat belt is available for the child in the front of the vehicle; and</p> <p>(e) the child is wearing an adult belt.</p>
2.	passenger car or light goods vehicle	<p>(a) the child is a small child aged 3 years or more;</p> <p>(b) the child is riding in the rear of the vehicle;</p> <p>(c) the child is travelling because of an unexpected necessity;</p> <p>(d) no appropriate seat belt is available for the child in the front or the rear of the vehicle; and</p> <p>(e) the child is wearing an adult belt.</p>
3.	passenger car	<p>(a) the child is aged 3 years or more;</p> <p>(b) the rear of the vehicle is not fitted with seat belts and is not required by or under any enactment to be fitted with seatbelts;</p> <p>(c) the child is riding in the rear of the vehicle; and</p> <p>(d) no appropriate seat belt is available for the child in the front of the vehicle.</p>
4.	cab or hire vehicle	<p>(a) the child is under 3 years;</p> <p>(b) no appropriate seat belt is available for the child in the front or rear of the vehicle; and</p> <p>(c) the child is riding in the rear of the vehicle.</p>
5.	cab or hire vehicle	<p>(a) the child is a small child aged 3 years or more;</p> <p>(b) no appropriate seat belt is available for the child in the front or rear of the vehicle;</p> <p>(c) the child is riding in the rear of the vehicle; and</p>

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		(d) the child is wearing an adult belt.
6.	bus	(a) the child is aged under 3 years; (b) no appropriate seat belt is available for the child in the front or rear of the vehicle; and (c) the child is riding in the rear of the vehicle.
7.	bus	(a) the child is a small child aged 3 years or more; (b) no appropriate seat belt is available for the child in the front or rear of the vehicle; (c) the child is riding in the rear of the vehicle; and (d) the child is wearing an adult belt.
8.	bus	(a) the child is a small child aged 3 years or more; (b) the rear of the vehicle is not fitted with seat belts and seat belts are not required by or under any enactment to be fitted in the rear of the vehicle; (c) no appropriate seat belt or adult belt is available for the child in the front or rear of the vehicle; and (d) the child is riding in the rear of the vehicle.
9.	bus	(a) the child is a small child aged 3 years or more; (b) no appropriate seat belt is available for the child in the front or the rear of the vehicle; (c) the child is riding in the front of the vehicle; and (d) the child is wearing an adult belt.
10.	bus	There is in force a public service vehicle licence under the Motor Traffic (Jersey) Law 1935 in respect of the vehicle which permits the standing of passengers.
11.	any motor vehicle	(a) the child is a large child; and (b) no appropriate seat belt is available for the child in the vehicle.
12.	any motor vehicle	There is in force a valid medical exemption certificate for the child.
13.	any motor vehicle	(a) the child is riding in the rear of the vehicle; and

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	(b)	the vehicle is being used for the purposes of the police, security or emergency services to enable the proper performance of their duties.
14.	any motor vehicle	(a) the child is disabled; and (b) the child is wearing a disabled belt.
15.	any motor vehicle	(a) the child is disabled; (b) a disabled person’s belt is not available to the child; (c) the child’s disability makes it impracticable to wear a seat belt; and (d) the child is riding in the rear of the vehicle.

- (2) The prohibition in Article 42(1) of the Law does not apply to the following vehicles –
- (a) 2-wheeled motor cycles with or without sidecars; and
 - (b) a motor vehicle with a design speed not exceeding 15 miles per hour.

5 Availability of seat belts for purposes of Article 4

- (1) For the purposes of Article 4, in relation to a child riding in a vehicle if any seat (other than the driver’s seat) is provided with a seat belt which is appropriate for the child, that belt is to be regarded as an appropriate seat belt available for the child unless the requirements of paragraph (2) are satisfied in relation to that child, that seat and that belt.
- (2) The requirements of this paragraph are satisfied in relation to a particular child (the “child in question”) and a particular seat (“the relevant seat”) provided with a particular seat belt (“the relevant belt”) if –
 - (a) another person is wearing the relevant belt;
 - (b) another child is occupying the relevant seat and wearing a child restraint which is an appropriate seat belt for that other child and the presence of that other child renders it impracticable for the child in question to wear the relevant belt;
 - (c) another person, being a person holding a medical exemption certificate, is occupying the relevant seat;
 - (d) a disabled person (not being the child in question) is occupying the relevant seat and wearing a disabled person’s belt and the presence of that other person renders it impracticable for the child in question to wear the relevant belt;
 - (e) by reason of the child in question’s disability it would not be practicable for the child in question to wear the relevant belt;
 - (f) the child in question is prevented from occupying the relevant seat by the presence of a child restraint (not being an appropriate child restraint for the child in question) which could not readily be removed without the aid of tools; or
 - (g) the relevant seat is specially designed so that –

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- (i) its configuration can be adjusted in order to increase the space in the vehicle available for goods or personal effects,
- (ii) when it is so adjusted the seat cannot be used as such, and
- (iii) the configuration is adjusted as described in clause (i) and it would not be reasonably practicable for the goods and personal effects being carried in the vehicle to be so carried were the configuration not so adjusted.

6 Motor Vehicles (Wearing of Seat Belts by Adults) (Jersey) Order 2009 amended

In Article 1 of the Motor Vehicles (Wearing of Seat Belts by Children) (Jersey) Order 2009, in the definition of “child restraint” for “Motor Vehicles (Wearing of Seat Belts by Children) (Jersey) Order 1998” there is substituted “Motor Vehicles (Wearing of Seat Belts by Children) (Jersey) Order 201-”.

7 Motor Vehicles (Construction and Use) (Jersey) Order 1998 amended

In Article 49 of the Motor Vehicles (Construction and Use) (Jersey) Order 1998 –

- (a) in paragraph (7) for “marked with a British standard mark or a designated approval mark:” there is substituted –

“marked –

- (a) with a British standard mark or a designated approval mark;
or
- (b) with an EC Component Type-Approval Mark complying with Annex III to Community Directive 2000/3:”;

- (b) in paragraph (11) –

- (a) in the definition “British Standard Mark”, in sub-paragraph (a)(ii) for “or BS AU 202a” there is substituted “, BS AU 202a or BS AU 202b”;
- (b) in the definition “designated approval mark”, in sub-paragraph (b) for “and 44B” there is substituted “, 44B and 44C”.

8 Motor Vehicles (Wearing of Seat Belts by Children) (Jersey) Order 1998 repealed

The Motor Vehicles (Wearing of Seat Belts by Children) (Jersey) Order 1998 is repealed.

9 Citation and commencement

This Order may be cited as the Motor Vehicles (Wearing of Seat Belts by Children) (Jersey) Order 201- and comes into force 7 days after the day it is made.

EXPLANATORY NOTE

The Draft Road Traffic (No. 64) (Jersey) Regulations 202- would amend the Road Traffic (Jersey) Law 1956 (“Law”), mainly by (a) broadening the circumstances in which a child under the age of 14 years is required to wear a seat belt appropriate for the child’s age and (b) introducing a requirement for passengers in buses and coaches equipped with seat belts to be notified that such seatbelts must be worn.

Regulation 1 is an interpretation provision.

Regulation 2 makes the penalties relating to seat belt use consistent by raising the penalty for a person aged 14 years or over riding in or driving a motor vehicle without wearing a seatbelt as prescribed by Order. The penalty is raised from a current maximum fine of £200 (level 1 on the standard scale) to a maximum fine of £1000 (level 2 on the standard scale).

Regulation 3 requires passengers in “buses” (defined to mean any motor vehicle with more than 8 seats in addition to the driver’s seat) to be notified by signs or an official announcement or an audio-visual presentation to the effect that every passenger sitting in a seat equipped with a seat belt is required to wear it.

Regulation 4 amends the provision in the Law that prohibits a person from driving a motor vehicle carrying a child who is not wearing a seat belt of a specified description. Currently the prohibition applies only where a seat belt is fitted, or legally required to be fitted, in a motor vehicle. This restriction is removed so that the effect of the amendment is that, except as provided by Order, the prohibition applies regardless of whether a seat belt is fitted, or legally required to be fitted, in a motor vehicle.

This Regulation also raises the penalty for driving a motor vehicle in contravention of the prohibition from a maximum fine of £200 (level 1 on the standard scale) to a maximum fine of £1000 (level 2 on the standard scale).

Finally, this Regulation broadens slightly the provisions in an Order prescribing descriptions of seat belt which may be worn and the manner in which such belts must be fixed and used. That power is broadened to refer more generally to requirements relating to the use of such seat belts or the manner in which they are fixed, including requirements relating to other fixtures and fittings such as airbags.

Regulation 5 broadens the definition of a “medical exemption certificate” to include certificates issued by the United Kingdom or any member State of the European Union. A medical exemption certificate certifies that a medical practitioner is satisfied that it would be inadvisable on medical grounds for the person named in the certificate (whether adult or child) to wear a seat belt.

Regulation 6 provides that these Regulations come into force 7 days after the day they are made.



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

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

1 Interpretation

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

2 Article 41 (wearing of seat belts) amended

In Article 41(3) of the principal Law for “level 1” there is substituted “level 2”.

3 Article 41A (notification to bus passengers of requirement to wear seat belts) inserted

After Article 41 of the principal Law there is inserted –

“41A Notification to bus passengers of requirement to wear seat belts

- (1) In this Article –
 - (a) “bus” means a motor vehicle that –
 - (i) has at least 4 wheels,
 - (ii) is constructed or adapted for the carriage of passengers, and
 - (iii) has more than 8 seats in addition to the driver’s seat;
 - (b) “operator” means the owner of a bus or, if the bus is in the possession of any other person under an agreement for hire, hire-purchase, conditional sale, loan or otherwise, that person;
 - (c) “passenger seat” means any seat other than the driver’s seat;
 - (d) “seat belt” means any description of seat belt prescribed under Article 41 or 42.

- (2) The operator of a bus in which any of the passenger seats are equipped with seat belts must take all reasonable steps to ensure that every passenger is notified that he or she is required to wear a seat belt at all times when –
 - (a) sitting in a seat equipped with a seat belt; and
 - (b) the bus is in motion.
- (3) For the purposes of paragraph (2), a passenger must be notified by one or more of the following means –
 - (a) an official announcement, or an audio-visual presentation, made when the passenger joins the bus or within a reasonable time of doing so;
 - (b) a sign prominently displayed at each passenger seat equipped with a seat belt.
- (4) In paragraph (3)(a), “official announcement” means an announcement by the driver of the bus, or by a conductor or courier or person who is a group leader in relation to any group of persons who are passengers on the bus.
- (5) For the purposes of paragraph (3)(b), a sign that takes the form of a pictorial symbol must show a white figure on a blue background in the form shown below.



- (6) An operator who contravenes paragraph (2) is guilty of an offence and liable to a fine of level 2 on the standard scale.”.

4 Article 42 (restrictions on carrying children not wearing seat belts in motor vehicles) amended

In Article 42 of the Law –

- (a) paragraph (1)(b) is deleted;
- (b) in paragraph (2) for “level 1” there is substituted “level 2”;
- (c) for paragraph (3)(c) there is substituted –
 - “(c) prescribing for the purposes of paragraph (1) the descriptions of seat belt to be worn by children of any prescribed description and prescribing any requirements relating to the use of such belts or the manner in which they are fixed, including requirements relating to other fixtures or fittings such as airbags.”.

5 Article 43 (medical exemption certificate) amended

For Article 43(1)(a) of the principal Law there is substituted –

- “(a) a medical exemption certificate is –

- (i) a certificate issued by a registered medical practitioner in accordance with the provisions of this Article to the effect that the registered medical practitioner is satisfied that it is inadvisable on medical grounds for the person named in the certificate to wear a seat belt, or
- (ii) a certificate to such effect issued by an authority having power to issue such a certificate under the law of the United Kingdom or a member State of the European Union.”.

6 Citation and commencement

These Regulations may be cited as the Road Traffic (No. 64) (Jersey) Regulations 201- and come into force 7 days after the day they are made.

ENDNOTES

Table of Endnote References

<i>1</i>	<i>chapter 23.350</i>
<i>2</i>	<i>chapter 25.550</i>
<i>3</i>	<i>chapter 25.550</i>