

STATES OF JERSEY

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DRAFT SUMMARY FINES (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 200

**Lodged au Greffe on 13th January 2009
by the Comité des Connétables**

STATES GREFFE



Jersey

DRAFT SUMMARY FINES (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 200

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Chairman of the Comité des Connétables has made the following statement –

In the view of the Chairman of the Comité des Connétables the provisions of the Draft Summary Fines (Miscellaneous Amendments) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Connétable K.P. Vibert of St. Ouen**

REPORT

1. Power of a Centenier to levy a fine

Provisions empowering Centeniers to levy fines summarily are contained in several different Laws. The power in each case is exercisable only if the person involved agrees to the matter being dealt with in this way.

Article 89(1) of the **Road Traffic (Jersey) Law 1956** empowers a Centenier, in respect of road traffic offences, to inflict and levy summarily a fine up to either an amount not exceeding one-fifth of level 2 on the standard scale (*i.e.* £100) or the maximum fine provided, whichever is the lower.

Article 1(2) of the **Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law 1957** empowers a Centenier, in respect of offences under Policing of Roads, Parks and Sea Beaches Regulations, to inflict and levy summarily a fine of up to either an amount not exceeding level 1 on the standard scale (*i.e.* £50) or the maximum fine for the offence, whichever is the lower.

Article 5(1) of the **Harbours (Administration) (Jersey) Law 1961** empowers a Centenier to inflict and levy summarily a fine of an amount not exceeding level 1 on the standard scale (£50) in respect of offences under Harbour Regulations.

Article 5 of the **Aerodromes (Administration) (Jersey) Law 1952** empowers a Centenier to inflict and levy summarily a fine of an amount not exceeding level 1 on the standard scale (£50) in respect of offences under Airport Regulations.

Article 20 of the **Motor Traffic (Third Party Insurance) (Jersey) Law 1948** empowers a Centenier to inflict and levy summarily a fine not exceeding one-fifth of level 2 on the standard scale (£100) for an offence under Article 16 of that Law (requirements as to display and production of insurance disc).

Article 14 of the **Motor Vehicle Registration (Jersey) Law 1993** empowers a Centenier to inflict and levy summarily a fine up to an amount not exceeding that specified in Schedule 1 to the Law in respect of that offence. The Schedule refers to any contravention of Article 11(2) of the Law (breach of requirement to notify Inspector of alteration, change of use, removal *etc.* of registered motor vehicle or change of address of owner) and specifies an amount of one-fifth of level 2 on the standard scale (£100).

And finally, Article 3(8) of the **Rates (Jersey) Law 2005** empowers a Centenier to inflict and levy summarily a fine of one-fifth of level 2 on the standard scale (£100) in respect of an offence under Article 3(6) of that Law (failure to return rate list).

It can be seen, therefore, that the jurisdiction of a Centenier to levy a fine summarily varies between level 1 on the standard scale (£50) and one-fifth of level 2 on the standard scale (£100). No reason is immediately apparent why –

- the Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law 1957;
- the Harbours (Administration) (Jersey) Law 1961; and
- the Aerodromes (Administration) (Jersey) Law 1952,

should fix upon a lower maximum jurisdiction than that fixed upon in the remaining 4 Laws. The divergence between these different provisions appears to be more historical^[1] than dependent upon the relative gravity of the offences concerned. For example, offences under Harbours or Airport Regulations are potentially as serious, if not more serious, than offences under the Road Traffic Law – and yet, as the legislation presently stands, the jurisdiction of a Centenier in the case of a road traffic offence is greater than in the case of an offence under Harbours or Airport Regulations.

Furthermore, the variation of amounts as between different statutes is confusing and could lead to mistakes. In any event, the amounts concerned have not been reviewed in some cases for over 17 years. In all the circumstances, it is thought proper that the level of fine able to be levied summarily be increased in all cases to two-fifths of level 2 on the standard scale, that is to say, £200.

This *projet de loi* gives effect to that proposal.

2. Powers under the Road Traffic (Jersey) Law 1956 – speeding offences

Under Article 89(1) of the Road Traffic Law, as already mentioned, where a person is charged with an offence, and accepts the decision of a Centenier, the Centenier may levy a fine summarily. However, under Article 89(2), this does *not* apply ‘*where the offender is charged with any offence specified in Schedule 3 to the extent specified therein in relation to that offence*’.

What this means (when one goes on to read Schedule 3) in relation to speeding offences, is that the following offences **cannot** be dealt with summarily by a Centenier:

- (i) **a second or subsequent speeding offence** committed –
 - within 3 years of the last speeding offence, or
 - within 3 years of an offence under
 - Article 22 (*dangerous driving*)
 - Article 25 (*careless driving*)
 - Article 27 (*driving under influence of drink or drugs*)
 - Article 28 (*driving above prescribed limit*)
 - Article 29 (*breath tests*)
 - Article 30 (*specimens*)
 - Article 52 (*duty to stop*) or
- (ii) **any speeding offence** of more than **15 m.p.h.** above the limit.

As far as (i) above is concerned, the draft Law will empower a Centenier – provided, of course, the person concerned accepts the decision – to levy a fine summarily in respect of a **second** (but not a third or subsequent) **speeding offence** within the 3 year period.

As far as (ii) above is concerned, the draft Law will empower a Centenier (again, if the person concerned accepts the decision) to levy a fine summarily in respect of any speeding offence of not more than –

- (a) **12 m.p.h.** above the limit, if committed within the 3 year period;
- (b) **19 m.p.h.** above the limit, if it is a first offence, or if it is committed after the 3 year period.

3. Other summary powers under the Road Traffic Law

As mentioned already, Article 89(1) of the Road Traffic Law provides that where a person is charged with any offence under the Law or under any Order – and accepts the decision of the Centenier – the Centenier may inflict and levy summarily a fine up to either an amount not exceeding (at the moment) one fifth of level 2 on the standard scale or the maximum fine provided for that offence, whichever is the lower.

But, again, as mentioned above, Article 89(2) prevents this procedure from taking place ‘*where the offender is charged with any offence specified in Schedule 3 to the extent specified therein in relation to that offence*’. The offences, other than speeding already been mentioned above, that fall within the ‘net’ of Schedule 3– and which **cannot** be dealt with at Parish Hall level – are as follows:

- driving without a licence or employing unlicensed driver (Article 4(1))
- applying for or obtaining a licence or driving while disqualified (Article 15(4))
- applying for or obtaining a licence without giving particulars of endorsement (Article 16(4))
- forgery etc. of licence (Article 18)
- restriction on driving by young or inexperienced persons (Article 20)
- dangerous driving (Article 22)
- causing death by dangerous driving (Article 23)
- careless driving (Article 25); except where each person who has suffered personal injury or damage to property as a result of the offence has agreed to accept the decision of the ... Centenier of the parish in which the offence was committed and the offence was committed more than 5 years since the date or which the defendant was last convicted for an offence under any of Articles 21, 22, 25, 27, 28, 29, 30, or 52;
- causing death by careless driving when under influence of drink or drugs (Article 26)

- driving, or attempting to drive, when under influence of drink or drugs (Article 27)
- driving or being in charge of a motor vehicle with alcohol concentration above prescribed limit (Article 28(1))
- failing to provide a specimen of breath (Article 29(4))
- failing to provide a specimen for analysis or a laboratory test (Article 30(7))
- failure to stop after an accident (Article 52)
- taking vehicle without owner's consent or authority where the vehicle concerned is a motor vehicle (Article 53)
- fraudulent interference with, or operation or display of, a parking device (Article 65(1))
- sale or supply of unroadworthy vehicle or alteration of vehicle so as to render it unroadworthy (Article 81)
- failure to give information as to person in charge of vehicle (Article 86).

Much discussion has taken place as to which of the above offences might be deleted from Schedule 3– thereby conferring a power on Centeniers to levy fines summarily in respect of such offences. There was close consultation with the (then) Magistrate as a result of which the following offences were identified –

Article 4(1): driving without a licence or employing unlicensed driver;

Article 16(4): applying for or obtaining a licence without giving particulars of endorsement;

Article 65(1): fraudulent interference with, or operation or display of, a parking device

Article 86: failure to give information as to person in charge of vehicle

The draft Law will remove these references from Schedule 3 so as to extend the jurisdiction of a Centenier to levy a fine summarily to these offences.

It should be noted, however, that in relation to the offence under Article 4(1) of the Road Traffic Law (driving without a licence or employing unlicensed driver) it is intended that the jurisdiction of a Centenier be confined to cases in which a person has inadvertently, rather than deliberately, failed to obtain a Jersey driving licence; a Centenier would not deal with an offence that vitiated the insurance cover of the driver concerned. A directive to this effect will issue if this Law is passed.

4. Road Traffic Law – consents in careless driving cases

It is helpful again to recall that Article 89(2) removes the ability of a Centenier to levy a fine summarily '*where the offender is charged with any offence specified in Schedule 3 to the extent specified therein in relation to that offence*'. The offences listed in Schedule 3 have already been listed above.

An offence of careless driving under Article 25 can only be dealt with at Parish Hall level if, amongst other things " ... *each person who has suffered personal injury or damage to property as a result of the offence has agreed to accept the decision of the ... Centenier ...*". This provision has been criticized as impractical because it requires each person who has suffered injury or damage as a result of the offence to be present at the Parish Hall inquiry. It has been criticized also for confusing criminal liability and a civil remedy – which are entirely separate matters.

The draft Law, therefore, in the entry in Schedule 3 relating to careless driving, deletes the reference to each person who has suffered personal injury or damage to property as a result of the offence having to agree to accept the decision of the Centenier.

5. Conclusion

The *Comité des Connétables* is indebted to the (former) Magistrate, now Senator B.I. Le Marquand, for the guidance he has offered at the preparatory and later stages of this project. This has enabled the *Comité* to be confident that its approach will in fact be helpful to those involved with both policing and the administration of justice. The reforms will, if taken forward, help with the workload of the Magistrate's Court. Many of the more minor categories of offence could now be dealt with by Centeniers at Parish Hall Enquiries. It must be remembered that at all times persons before a Parish Hall Enquiry are not obliged to accept the decision of the Centenier, but can insist on their case being considered by the Magistrate. Notwithstanding this, the adoption of these measures must be seen as assisting with the Criminal Justice system.

There are no financial or manpower implications for the States arising from the adoption of this Draft Law.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 9th January 2009 the Chairman of the Comité des Connétables made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Chairman of the Comité des Connétables the provisions of the Draft Summary Fines (Miscellaneous Amendments) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This Law makes 2 changes relating to the power of a Connétable or Centenier to impose a fine summarily.

Firstly, it increases and standardises the maximum fine that may be imposed summarily by a Connétable or Centenier. The fine on conviction and the current maximum fine that may be levied summarily under the enactments to be amended are shown, for information, in columns 2 and 3 of the table below. The increased and standardised maximum fine given effect by *Articles 1 to 7* of this Law is shown in column 4 of the table.

1 Law amended and offence for which summary fine may be levied	2 Maximum fine on conviction	3 Current maximum fine that may be levied summarily	4 Proposed maximum fine that may be levied summarily
Motor Traffic (Third-Party Insurance) (Jersey) Law 1946: failing to display or produce insurance disc	level 2 – £500	One fifth of level 2 – £100	Two fifths of level 2 – £200
Aerodromes (Administration) (Jersey) Law 1952: any offence against Regulations made under the Law	In the Regulations, maximum fines currently range from level 2 to level 4 – £500 to £5,000	Level 1 – £50	Two fifths of level 2 – £200 or, if lower, the maximum penalty on conviction for the offence
Road Traffic (Jersey) Law 1956: any offence under the Law or an Order made under it	Range from level 1 – £50 to unlimited fine	One fifth of level 2 – £100 or, if lower, the maximum penalty on conviction for the offence	Two fifths of level 2 – £200 or, if lower, the maximum penalty on conviction for the offence
Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law: offences against Regulations policing roads, beaches and parks	In the Regulations, maximum fines are all, currently, level 2 – £500	Level 1 – £50 or, if lower, the maximum penalty on conviction for the offence	Two fifths of level 2 – £200 or, if lower, the maximum penalty on conviction for the offence
Harbours Administration (Jersey) Law 1961: any offence against Regulations made under the Law	In the Regulations, maximum fines currently range from level 2 to level 4 – £500 to £5,000	Level 1 – £50	Two fifths of level 2 – £200 or, if lower, the maximum penalty on conviction for the offence
Motor Vehicle Registration (Jersey) Law 1993: failure to notify change in details registered for motor vehicle	Level 2 – £500	One fifth of level 2 – £100	Two fifths of level 2 – £200
Rates (Jersey) Law 2005: failure to provide rating information when served with notice	Level 2 – £500	One fifth of level 2 – £100	Two fifths of level 2 – £200

Secondly, *Article 8* of the draft Law adds to the offences in relation to which a Connétable or Centenier may impose a fine summarily under the Road Traffic (Jersey) Law 1956.

The powers are extended to –

- (a) the offence of applying for or obtaining a driving licence without giving particulars of an endorsement;

- (b) the offence of fraudulently interfering with, operating or displaying a parking device (which expression would include paycards);
- (c) where a road traffic offence is alleged to have been committed, the offence of failing to give information as to the person in charge of the car.

A Connétable or Centenier already has summary powers in relation to speeding offences, but the powers are currently restricted so that they cannot be exercised where the offender has committed one of certain road traffic offences within the past 3 years or where the offender's speed exceeded the limit by more than 15 m.p.h. This draft Law relaxes those restrictions with the effect that the powers can be exercised –

- (a) in any case where the offender's speed does not exceed the limit by more than 12 m.p.h.;
- (b) in a case where the offender's speed exceeds the limit by more than 12 m.p.h. but not more than 19 m.p.h., provided that the offender has not committed one of certain road traffic offences within the past 3 years.

A Connétable or Centenier could not exercise summary powers in any case where the offender's speed exceeded the limit by more than 19 m.p.h.



Jersey

DRAFT SUMMARY FINES (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 200

Arrangement

Article

	<i>Increase in maximum fine that may be imposed summarily</i>
<u>1</u>	<u>Motor Traffic (Third-Party Insurance) (Jersey) Law 1948 amended</u>
<u>2</u>	<u>Aerodromes (Administration) (Jersey) Law 1952 amended</u>
<u>3</u>	<u>Road Traffic (Jersey) Law 1956 amended</u>
<u>4</u>	<u>Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law 1956 amended</u>
<u>5</u>	<u>Harbours (Administration) (Jersey) Law 1961 amended</u>
<u>6</u>	<u>Motor Vehicle Registration (Jersey) Law 1993 amended</u>
<u>7</u>	<u>Rates (Jersey) Law 2005 amended</u>
	<i>Extension of powers to impose fine summarily</i>
<u>8</u>	<u>Road Traffic (Jersey) Law 1956 amended</u>
	<i>Closing provision</i>
<u>9</u>	<u>Citation and commencement</u>



Jersey

DRAFT SUMMARY FINES (MISCELLANEOUS AMENDMENTS) (JERSEY) LAW 200

A LAW to amend miscellaneous enactments so as to increase the maximum amount of a fine that may be inflicted and levied summarily by a Connétable or Centenier and to extend a Connétable or Centenier's powers to inflict and levy a fine summarily

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

Increase in maximum fine that may be imposed summarily

1 Motor Traffic (Third-Party Insurance) (Jersey) Law 1948 amended

In Article 20(1) of the Motor Traffic (Third-Party Insurance) (Jersey) Law 1948^[1], for the word “1/5th” there shall be substituted the words “two fifths”.

2 Aerodromes (Administration) (Jersey) Law 1952 amended

In Article 5(1) of the Aerodromes (Administration) (Jersey) Law 1952^[2], for the words “level 1” to the end of the paragraph there shall be substituted the words “two fifths of level 2 on the standard scale or the maximum fine provided for the offence, whichever is the lower”.

3 Road Traffic (Jersey) Law 1956 amended

In Article 89(1) of the Road Traffic (Jersey) Law 1956^[3], for the words “one fifth” there shall be substituted the words “two fifths”.

4 Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law 1956 amended

In Article 1(2) of the Policing of Roads, Parks and Sea Beaches (Application of Fines) (Jersey) Law 1956^[4], for the words “level 1 on the standard scale” there shall be substituted the words “two fifths of level 2 on the standard scale”.

5 Harbours (Administration) (Jersey) Law 1961 amended

In Article 5(1) of the Harbours (Administration) (Jersey) Law 1961 for the words “level 1” to the end of the paragraph there shall be substituted the words “two fifths of level 2 on the standard scale or the maximum fine provided for the offence, whichever is the lower”.

6 Motor Vehicle Registration (Jersey) Law 1993 amended

In the Schedule to the Motor Vehicle Registration (Jersey) Law 1993^[5], in second column of the table, in entry 1., for the words “One-fifth” there shall be substituted the words “Two fifths”.

7 Rates (Jersey) Law 2005 amended

In Article 3(8) of the Rates (Jersey) Law 2005^[6], for the words “one-fifth” there shall be substituted the words “two fifths”.

Extension of powers to impose fine summarily

8 Road Traffic (Jersey) Law 1956 amended

In Schedule 3 to the Road Traffic (Jersey) Law 1956^[7] –

- (a) the references to offences against Articles 16(4), 65(1) and 86 and their related provisions as to extent shall be deleted;
- (b) for the provision as to extent related to an offence against Article 21 there shall be substituted the following provision –

“limitation of speed –

(a) an offence –

- (i) involving a speed of more than 12 m.p.h. but not more than 19 m.p.h. above the limit in relation to a vehicle of the class or description concerned, and
- (ii) which is committed within 3 years of the date on which the defendant was convicted for an offence under any of Articles 21, 22, 25, 27, 28, 29, 30 or 52;

(b) an offence involving a speed of more than 19 m.p.h. above the limit in relation to a vehicle of the class or description concerned;”.

Closing provision

9 Citation and commencement

This Law may be cited as the Summary Fines (Miscellaneous Amendments) (Jersey) Law 200- and shall come into force 7 days after it is registered.

[1] The amount leviable under Article 89 of the Road Traffic Law 1956 was increased from £50 to £100 in June 2002; that under the Policing of Roads, Parks and Sea Beaches Law 1957 was increased from £20 to £50 in May 1991; that under the Harbours (Administration) Law 1961 from £20 to £50 in January 1992; that under the Aerodromes Law 1952 from £20 to £50 in May 1991; that under the Motor Traffic (Third Party Insurance) Law 1948 from £50 to £100 in November 2003; that under the Motor Vehicle (Registration) Law 1993 was introduced in 2003; and that under the Rates Law 2005 (£100) was fixed in place of £50 under the earlier Parish Rate (Administration) Laws.

[1] *chapter 25.250*

[2] *chapter 03.035*

[3] *chapter 25.550*

[4] *chapter 22.600*

[5] *chapter 25.350*

[6] *chapter 24.950*

[7] *chapter 25.550*