

# STATES OF JERSEY



## **DRAFT ROAD TRAFFIC (No. 62) (JERSEY) REGULATIONS 201-**

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**Lodged au Greffe on 1st October 2015  
by the Minister for Transport and Technical Services**

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**STATES GREFFE**





Jersey

## **DRAFT ROAD TRAFFIC (No. 62) (JERSEY) REGULATIONS 201-**

### **REPORT**

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In 2011 a fatal road crash occurred on St. Clement's Coast Road. The driver was charged with causing death by dangerous driving, an offence which carries a maximum sentence of 10 years imprisonment. The Prosecution concluded however that there was insufficient evidence to secure a conviction for dangerous driving and proceeded with the alternative charge of careless driving for which the maximum penalty is £1,000. The defendant pleaded guilty to that charge, was fined £750 and disqualified from driving for one year.

The previous Minister for Home Affairs subsequently wrote to the previous Minister for Transport and Technical Services requesting that an offence be created in the Road Traffic (Jersey) Law 1956, of causing death by careless driving with a penalty of up to 5 years imprisonment.

A cross departmental review of traffic penalties concluded that the need for an offence of causing death by careless driving was evident but that the consequence of causing serious injury should also be addressed.

Over 50 serious road injuries per year typically occur in Jersey, whereas on average there are 3 fatalities. These injuries though not fatal could be life changing and the seriousness of them should also be recognised in the offences and level of penalties.

Proposed new offences have therefore been developed which would combine the seriousness of the action with the seriousness of the consequences and ensure that the Court has the power to apply appropriate penalties in order to provide an effective deterrent to unsafe road use.

The penalties for the new offences (where equivalent offences exist) are consistent with the penalties applicable in the UK. The Attorney General has advised on the appropriateness of all the offences and penalties.

A summary of the existing/proposed legislation is provided in the following table –

<b>Offence/ consequence</b>	<b>Dangerous driving</b>	<b>Careless driving whilst under influence of drink or drugs</b>	<b>Careless driving</b>
<b>Causing Death</b>	Existing Article 23. Fine and up to 10 years' imprisonment and 2 years' disqualification.	Existing Article 26. Fine plus up to 10 years' prison as existing, increase in disqualification to 2 years (then 3 years for second offence).	Proposed new offence, (Article 25A). Fine plus up to 5 years' imprisonment, plus 12 months' disqualification.
<b>Causing Serious Injury</b>	Proposed new offence, (Article 23A). Fine and up to 5 years' imprisonment and 2 years' disqualification.	Proposed new offence, (Article 26B). Fine plus up to 4 years' prison plus 2 years' disqualification (then 3 years for second offence).	Proposed new offence, (Article 26A). Fine plus up to 2 years' imprisonment plus 12 months' disqualification.
<b>No injury</b>	Existing Article 22. Fine and up to 2 years' imprisonment as existing. Proposed disqualification for 12 months.	Existing Article 27 (Driving under influence). 12 months disqualification (then 3 years for second offence) as existing. Proposed increase in fine to Level 4 (£5000) plus up to 12 months' imprisonment.	Article 25. Proposed increase from £1000 fine to Level 4 (£5000).

### **Financial and manpower implications**

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

## Explanatory Note

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These Regulations create several new serious motoring offences as well as revising the penalties in relation to some existing offences.

The main changes are as follows:

- (a) a requirement (in the absence of special reasons) to disqualify a person for holding or obtaining a licence for 12 months is introduced in respect of an offence of dangerous driving (*Regulation 2*);
- (b) an offence of causing serious injury by dangerous driving is introduced punishable by an unlimited fine and/or up to 5 years' imprisonment and disqualification for 2 years (*Regulation 3*);
- (c) the penalty for careless driving is increased from a fine of up to £1,000 to a fine of up to £5,000 (*Regulation 5*);
- (d) an offence of causing death by careless driving is introduced punishable by an unlimited fine and/or up to 5 years' imprisonment and disqualification for 12 months (*Regulation 6*);
- (e) the length of the period of disqualification for holding or obtaining a driving licence for the offence of causing death by careless driving when under the influence of drink or drugs is increased from 12 months to 2 years (*Regulation 7*);
- (f) an offence of causing serious injury by careless driving is introduced punishable by an unlimited fine and/or up to 2 years' imprisonment and disqualification for 12 months (*Regulation 8*);
- (g) an offence of causing serious injury by careless driving when under the influence of drink or drugs is introduced punishable by an unlimited fine and/or up to 4 years' imprisonment and disqualification for 2 years, or for 3 years if committed within 10 years of the last such offence (*Regulation 8*);
- (h) the penalty for driving when under the influence of drink or drugs is increased from a fine of up to £2,000 and/or imprisonment for up to 6 months to a fine of up to £5,000 and/or imprisonment for up to 12 months (*Regulation 9*);
- (i) a new table of alternative verdicts is introduced (*Regulation 10*).





Jersey

## **DRAFT ROAD TRAFFIC (No. 62) (JERSEY) REGULATIONS 201-**

### **Arrangement**

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#### **Regulation**

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Jersey

## **DRAFT ROAD TRAFFIC (No. 62) (JERSEY) REGULATIONS 201-**

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

**THE STATES**, in pursuance of Order in Council of 26th December 1851<sup>1</sup> and Article 92 of the Road Traffic (Jersey) Law 1956<sup>2</sup>, have made the following Regulations –

### **1 Amendment of the Road Traffic (Jersey) Law 1956**

The Road Traffic (Jersey) Law 1956<sup>3</sup> is amended in accordance with these Regulations.

### **2 Article 22 amended**

In Article 22, after paragraph (4) there shall be added the following paragraph –

“(5) A person convicted of a motoring offence under this Article shall, without limiting the power of the court to order a longer period of disqualification and unless the court for any special reason thinks fit to order otherwise, be disqualified for a period of 12 months for holding or obtaining a licence.”.

### **3 Article 23A inserted**

After Article 23 there shall be inserted the following Article –

#### **“23A Causing serious injury by dangerous driving**

- (1) A person who causes serious injury to another person by driving a motor vehicle dangerously on a road or other public place is guilty of an offence.
- (2) A person guilty of an offence under this Article is liable to imprisonment for a term of 5 years and to a fine.
- (3) Particulars of any conviction for an offence under this Article must be endorsed on any licence held by the person convicted.

- (4) A person convicted of an offence under this Article shall, without limiting the power of the court to order a longer period of disqualification and unless the court for any special reason thinks fit to order otherwise, be disqualified for a period of 2 years for holding or obtaining a licence.”.

#### **4 Article 24 amended**

In Article 24, in its heading and in paragraphs (1) and (3) for the words “Articles 22 and 23” there shall be substituted the words “Articles 22, 23 and 23A”.

#### **5 Article 25 amended**

In Article 25(2) for the words “not exceeding £1,000” there shall be substituted the words “of level 4 on the standard scale”.

#### **6 Article 25A inserted**

After Article 25 there shall be inserted the following Article –

##### **“25A Causing death by careless driving**

- (1) A person who causes the death of another person by driving a motor vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.
- (2) A person guilty of an offence under this Article is liable to imprisonment for a term of 5 years and to a fine.
- (3) Particulars of any conviction for an offence under this Article must be endorsed on any licence held by the person convicted.
- (4) A person convicted of an offence under this Article shall, without limiting the power of the court to order a longer period of disqualification and unless the court for any special reason thinks fit to order otherwise, be disqualified for a period of 12 months for holding or obtaining a licence.”.

#### **7 Article 26 amended**

In Article 26 –

- (a) in paragraph (5) for the words “12 months” there shall be substituted the words “2 years”;
- (b) in paragraph (6) for the words “Article 27” there shall be substituted the words “Article 26B, 27”.

#### **8 Articles 26A, 26B and 26C inserted**

After Article 26 there shall be inserted the following Articles –

**“26A Causing serious injury by careless driving**

- (1) A person who causes serious injury to another person by driving a motor vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, is guilty of an offence.
- (2) A person guilty of an offence under this Article is liable to imprisonment for a term of 2 years and to a fine.
- (3) Particulars of any conviction for an offence under this Article must be endorsed on any licence held by the person convicted.
- (4) A person convicted of an offence under this Article shall, without limiting the power of the court to order a longer period of disqualification and unless the court for any special reason thinks fit to order otherwise, be disqualified for a period of 12 months for holding or obtaining a licence.

**26B Causing serious injury by careless driving when under the influence of drink or drugs**

- (1) A person who causes serious injury to another person by driving a motor vehicle on a road or other public place without due care and attention or without reasonable consideration for other persons using the road or place and –
  - (a) the person is, at the time when driving, unfit to drive through drink or drugs;
  - (b) the person has consumed so much alcohol that the proportion of it in his or her breath, blood or urine at that time exceeds the prescribed limit;
  - (c) the person is, within 18 hours after that time, required to provide a specimen under Article 30, but, without reasonable excuse, fails to provide it; or
  - (d) the person is required by a police officer to give permission for a laboratory test of a specimen of blood taken from the person under Article 30A, but without reasonable excuse fails to do so,is guilty of an offence.
- (2) For the purposes of this Article, a person is taken to be unfit to drive if his or her ability to drive properly is for the time being impaired.
- (3) A person guilty of an offence under this Article is liable to imprisonment for a term of 4 years and to a fine.
- (4) Particulars of any conviction for an offence under this Article must be endorsed on any licence held by the person convicted.
- (5) A person convicted of an offence under this Article shall, without limiting to the power of the court to order a longer period of disqualification and, unless the court shall for any special reason think fit to order otherwise, in the case of a first offence, be disqualified for a period of 2 years and in the case of a second or

subsequent offence committed within 10 years of the last such offence, for a period of 3 years, for holding or obtaining a licence.

- (6) In paragraph (5) “offence” means an offence under this Article or under Article 26, 27, 28, 30 or 30B.

### **26C Meaning of ‘serious injury’**

In Articles 23A, 26A and 26B “serious injury” means an injury that –

- (a) requires hospitalization for more than 48 hours, commencing within 7 days from the date the injury was received;
- (b) results in a fracture of any bone (except simple fractures of fingers, toes or nose);
- (c) involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage;
- (d) involves injury to any internal organ; or
- (e) involves second or third degree burns, or any burns affecting more than 5 per cent of the body surface.”.

## **9 Article 27 amended**

In Article 27 –

- (a) in paragraph (2) for the words after “liable to” to the end of the paragraph there shall be substituted the words “imprisonment for a term of 12 months and to a fine of level 4 on the standard scale”;
- (b) in paragraph (6) after the words “Article 26,” there shall be inserted the word “26B,”.

## **10 Article 36 amended**

- (1) In Article 36(1), for the table there shall be substituted the following table –

<b>Offence charged</b>	<b>Alternative</b>
causing death by dangerous driving (Article 23)	dangerous driving (Article 22)
	causing death by careless driving (Article 25A)
	careless driving (Article 25)
causing serious injury by dangerous driving (Article 23A)	dangerous driving (Article 22)
	careless driving (Article 25)
	causing serious injury by careless driving (Article 26A)
dangerous driving (Article 22)	careless driving (Article 25)

<b>Offence charged</b>	<b>Alternative</b>
causing death by careless driving when under influence of drink or drugs (Article 26)	careless driving (Article 25)
	causing death by careless driving (Article 25A)
	driving when under influence of drink or drugs (Article 27)
	driving with alcohol concentration above prescribed limit (Article 28)
	failing to provide a specimen for analysis or laboratory tests (Article 30(7))
	failing to give permission for a laboratory test of a specimen (Article 30B)
causing death by careless driving (Article 25A)	careless driving (Article 25)
causing serious injury by careless driving (Article 26A)	careless driving (Article 25)
causing serious injury by careless driving when under influence of drink or drugs (Article 26B)	careless driving (Article 25)
	driving when under influence of drink or drugs (Article 27)
	driving with alcohol concentration above prescribed limit (Article 28)
	failing to provide a specimen for analysis or laboratory tests (Article 30(7))
	failing to give permission for a laboratory test of a specimen (Article 30B)
driving when under influence of drink or drugs (Article 27)	being in charge of a motor vehicle when under influence of 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 when under influence of drink or drugs (Article 27)

- (2) In Article 36(2) after the words “Article 26” there shall be inserted the words “or Article 26B”.

## **11 Citation and commencement**

- (1) These Regulations may be cited as the Road Traffic (No. 62) (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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- <sup>1</sup> *chapter 23.350*  
<sup>2</sup> *chapter 25.550*  
<sup>3</sup> *chapter 25.550*