

STATES OF JERSEY



Jersey

DRAFT ROAD TRAFFIC (No. 68) (JERSEY) REGULATIONS 202- (P.39/2021): AMENDMENT

**Lodged au Greffe on 29th September 2021
by the Minister for Infrastructure
Earliest date for debate: 2nd November 2021**

STATES GREFFE

DRAFT ROAD TRAFFIC (No. 68) (JERSEY) REGULATIONS 202- (P.39/2021):
AMENDMENT

PAGE 9, ARTICLE 2 –

In the substituted Article 52 –

- (a) in paragraph (4) –
 - (i) for “If a driver of a motor vehicle reasonably believes that a cat has been struck owing to the presence of the vehicle on a road, the driver must” substitute “Subject to paragraph (5), if a cat is hit by a motor vehicle while that vehicle is being driven on a road, the driver of the vehicle must”,
 - (ii) in sub-paragraph (b)(i) for “struck” substitute “hit”;
- (b) after paragraph (4) insert –
 - “(5) A driver is not guilty of an offence of failing to comply with paragraph (4) if the driver of the motor vehicle did not know and had no reason to suspect that a cat was hit by the motor vehicle.”;
- (c) renumber existing paragraphs (5) to (9) accordingly;
- (d) in paragraph (4)(b) for “(5)” substitute “(6)”;
- (e) in paragraph (8) (renumbered as (9)) for “(5)(b)” substitute “(6)(b)”.

MINISTER FOR INFRASTRUCTURE

REPORT

Background

On 9th June 2021 the States unanimously adopted the principles of the [Road Traffic \(Amendment No. 68\) \(Jersey\) Regulations 202-](#). Having been informed by the Chair of the Environment, Housing and Infrastructure Scrutiny Panel that he wished to have the draft Regulations referred to that Scrutiny Panel, the States agreed that the 2nd reading of the Regulations should be listed to continue in October.

Purpose of the amendment

On 7th June 2021, the Minister for Infrastructure and officers of the department of Infrastructure, Housing and Environment attended a meeting of the Scrutiny Panel.

The Scrutiny Panel raised concerns about the difficulties of enforcing an offence which requires the prosecution to prove that a driver of a vehicle has a “reasonable belief” that a cat has been struck by the vehicle.

The enforceability of all offences requires the prosecution to prove the elements of the offence exist. That may or may not be possible, depending on the facts of the case. Offences are committed which are unenforceable because there is insufficient proof.

However, the Minister has listened to the Scrutiny Panel’s concerns and, in consultation with the Law Officers’ department, proposes this amendment to address the issue raised.

In the amendment, “reasonable belief” is no longer an element of the offence which the prosecution must prove. Instead, the amendment provides that no offence is committed if the driver of the vehicle does not know that a cat has been hit and has no reason to suspect that a cat had been hit. It would be for the driver to raise this but there is no requirement to meet the high level of proof that the prosecution would be required to meet. As with all offences whether or not a prosecution would succeed would depend on the facts of the case.

Financial and manpower implications

If this amendment were adopted there would be no financial and manpower implications.