

STATES OF JERSEY



DRAFT ROAD TRAFFIC (NO. 65) (JERSEY) REGULATIONS 202- (P.6/2021): COMMENTS

**Presented to the States on 19th March 2021
by the Environment, Housing and Infrastructure Scrutiny Panel**

STATES GREFFE

COMMENTS

[P.6/2021](#) - Draft Road Traffic (No. 65) (Jersey) Regulations 202- (hereafter the “draft Regulations”) was lodged au Greffe on 2nd February 2021 by the Minister for Infrastructure to amend the [Road Traffic \(Jersey\) Law 1956](#) and the [Motor Vehicles \(Driving Licences\) \(Jersey\) Order 2003](#). It is noted that the proposals used the guiding principles within the EU Directive 2006/126/EC to align Jersey’s legislation with that of the United Kingdom as far as was possible. The rationale for the proposed changes was to update the legislation regarding driving licences. Thereby, to harmonise the period for renewal of vocational licences and prescribed diseases with other licensing authorities and to provide issuing authorities with a robust medical framework in support of their role. The intention was for the proposed Order amendment to be made once the proposed amendment to the draft Regulations was made.

The Environment, Housing and Infrastructure Panel, (hereafter the “Panel”) was briefed on the draft Regulations by Officers from Driver and Vehicle Standards (DVS) on Tuesday 16th March 2021, ahead of the States Assembly debate on the draft Regulations scheduled for the 23rd March. The Panel was informed that that work had been ongoing regarding the legislative update for several years and that as a result of the Covid-19 pandemic, as well as Brexit, the work had been delayed. However, it was noted that the requirement for the legislative update had been approved by the States Assembly in 2014.

During the briefing, it was clarified that through updating the current Regulations as proposed by the draft Regulations, it would firstly, enable Jersey to benefit from extensive UK Driver and Vehicle Licensing Agency (DVLA) materials and that by mirroring the UK legislation, Jersey could align its requirements with the UK DVLA guidance when assessing the fitness of individuals to drive. Thereby, parishes would also be mindful of the requirements that would be applicable and that would support the parish function regarding licensing. Secondly, it would ensure Jersey was compliant with the Directive 2006/126/EC (the 3rd Directive) on driving licences. It was highlighted that through achieving this compliance, other jurisdictions would be more likely to recognise Jersey driving licences abroad. Thirdly, the Panel was informed that the former Jersey Medical Officer of Health was supportive of and had recommended that all medical practitioners in Jersey should work under the Jersey Law and the UK medical regulation (General Medical Council). Work undertaken in that regard had assisted with Jersey’s alignment to the UK in respect of the legislative requirements.

Diabetes

The Panel questioned whether a distinction was made in the draft Regulations regarding Type 1 or Type 2 Diabetes. It was explained that a distinction was not explicitly made within the draft Regulations. However, that evidence had suggested that people were now more aware of this condition and that it was being more readily diagnosed and treated. The Panel suggests that guidance notes should be made available.

Implementation of the Draft Regulations

The Panel was informed that a minimum six - month implementation period after the Assembly debate of the proposition would follow, before the Order and Regulation changes would come into effect. This would allow for the preparation of any supporting documentation as well as the liaison with specific medical departments, charities, and organisations. In addition, it would enable engagement with the public regarding the changes to be undertaken.

The Panel questioned if the life of a licence was to be reduced, whether this would be reflected by a reduced licence fee. The Panel was satisfied to hear that this aspect was being considered and that the draft Regulations would allow for fees to be reduced if required. Notwithstanding, the Panel is cognisant that the predominant cost of the licence in its initial issue is by virtue of administration and production costs.

The Panel understands that the approach to align the legislation with that of the UK would be beneficial. However, it questioned whether an international driving permit would still be required for holders of Jersey licences when driving in the EU under the draft Regulations. It was explained that work was being undertaken in relation to driving licence recognition and driving licence exchange components. However, more clarity was required in relation to how this could work within the EU and therefore an appropriate international permit would still be required when driving in the EU for holders of a Jersey licence. Regarding the exchange of a Jersey licence, it was explained this was dependent upon the jurisdiction and work in that area, albeit progressing, was more complex and slow moving.

The Panel questioned whether statistics were available regarding how many people in Jersey, with the medical conditions outlined in the legislation, would potentially be impacted by the legislative changes. The Panel was informed that actual numbers were not available as part of the legislation relied upon self-declaration of medical conditions by the applicant. However, it was highlighted that correspondence had taken place with charities which supported individuals with the medical conditions relevant to the draft Regulations. Consequently, through that correspondence, Officers advised that it had been identified that a number of people with existing conditions including epilepsy and diabetes were waiting in anticipation for the changes to occur in order to apply for heavy vehicle licences, which was not possible under the current legislation.

The Panel raised a point of concern regarding the requirement for an applicant to self-declare a medical condition and questioned whether there could be a risk that individuals could choose to withhold information during the application process, or to not inform the parish of any changes in medical conditions during the licence period. The Panel asked whether the parish would be able to require the individual to undertake a medical examination to rule out any potential risk. It was explained that the onus was on the applicant, or holder of the licence, to declare any medical condition or changes in medical conditions and that the approach was working for authorities within other jurisdictions. However, it was highlighted that consideration had been given to the implementation of eye tests prior to the re-issue of licences but noting that the peripheral test could only be carried out by an optician, the approach would not be feasible. It was noted that the self-declaration aspect was a complex area and that some people may choose to not accurately declare medical conditions. However, it was emphasised that, to date, there was no evidence to suggest this to be an area of concern.

The Panel suggested a mechanism to address this concern whereby police officers could require a holder of a driver's licence to undertake an eye test if suspicion arose and that could be arranged via the parish system by a request for a professional medical opinion.

The Panel questioned whether the self-declaration component of the draft Regulations would be communicated clearly with the public so that there was adequate awareness of the requirements under the draft Regulations and the public's responsibility in that regard. The Panel was informed that the draft Regulations would be communicated to

the public in order to raise awareness of the requirements and changes regarding the legislation. In addition, it was explained that a communication drive with charities would assist with communicating the changes to those members of the public who may be impacted by the changes in relation to medical conditions.

The Panel asked what factors had dictated the age of 66 years as the notable age. It was explained that the age within the current legislation was 66 years and that no reason had prevailed to consider a different age. It was highlighted that ageing impacted an individual's health and that controls were needed to avoid any potential danger to the public. It was explained that age would not be a determining factor for a standard driving licence. The Panel would be keen to see documentary evidence to support the prescribed age of 66.

The Panel questioned whether a person of the age of 66 or over who wished to drive a heavy vehicle would be required to complete a medical form as part of the application process to prove that no medical conditions were apparent. The Panel highlighted, regarding gun licences, that the parish could require a doctor to ascertain that the medical form supplied by the applicant had been correctly filled out, and asked whether that would be an option under these circumstances, or if any other mechanism would be used to ensure the information provided was accurate. It was explained that a medical form would need to be provided and that this was addressed within the draft Regulations to ensure the ongoing safety of the individual.

The Panel asked whether Article 10 of the Law could be used whereby a Connétable could refer the individual to a doctor as this could provide a mechanism to circumvent the risk of inaccurate medical information being supplied by an applicant. The Panel was informed that Article 10 had been more broadly defined in the draft Regulations, therefore, the parish would be able to require a medical examination, if it was considered appropriate to do so.

The Panel questioned what the consequence would be for knowingly submitting the incorrect information when making the application. It was explained that it was a criminal offence to provide incorrect information to the parish and a criminal offence to submit the declaration when knowing that the information supplied was inaccurate. The Panel understands that an offence of knowingly providing fraudulent information would be liable to a level 3 fine on the [standard scale](#) (£10,000).¹ Where there is an error or omission on the application which is not deemed to have been made with fraudulent intent, the Panel understands this would be liable to a level 2 fine on the [standard scale](#) (£1,000).²

Conclusion

Subject to its concerns highlighted above, the Panel is satisfied with the purpose and rationale of the draft Regulations to update and align Jersey's legislation regarding driving licences and medical requirements with that of the UK. It will, therefore, be supporting the draft Regulations.

¹ [Article 18 \(2\) of the Road Traffic \(Jersey\) Law 1956](#)

² [Article 4 \(10\) of the Road Traffic \(Jersey\) Law 1956](#)