

DRAFT ROAD TRAFFIC (No. 52) (JERSEY) REGULATIONS 200

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The purpose of these Regulations is to amend the Road Traffic (Jersey) Law 1956 by substituting two Articles for the existing Article 5 which deals with medical fitness requirements in respect of driving licences.

The first new Article deals with the medical requirements and conditions which must be satisfied before the Authority can issue a licence to a driver for the first time.

The second new Article deals with the medical requirements to be satisfied by existing drivers and empowers the Authority (if appropriate) to require a medical examination or a driving test. It also empowers the Authority to suspend a licence until the result of the medical examination is known and to revoke a licence if the results of the medical examination are unsatisfactory or the driving test is failed.

In all cases there is a right of Appeal to the Royal Court.

These draft Regulations have no implications for the financial or manpower resources of the States.

Explanatory Note

The purpose of these Regulations is to substitute for Article 5 of the Road Traffic (Jersey) Law 1956 two Articles that set out more clearly the medical fitness requirements in respect of driving licences.

New Article 5 requires an applicant for a driving licence to disclose any medical condition he or she is suffering from or has suffered from that may make it a danger to the public for the applicant to drive a motor vehicle.

In some instances an applicant with a relevant medical condition may still be granted a driving licence if he or she complies with certain conditions or passes a driving test that proves that the applicant can drive a motor vehicle without being a danger to the public.

In some cases such an applicant may be granted a driving licence limited to vehicles of a certain type or construction, e.g. an invalid carriage or an especially converted vehicle.

A person who is not granted a driving licence because of a medical condition or is limited as to the type of vehicles he or she can drive is given a right of appeal to the Royal Court.

Article 5A covers the situation where the holder of a driving licence starts to suffer from, or has a reoccurrence of a medical condition that makes it a danger to the public for him or her to continue to drive motor vehicles.

Except where the medical condition is likely to be temporary, the driver must report the condition to the parochial authority.

Where the parochial authority has reason to suspect (either after being notified by the licence holder or otherwise) that a licence holder living in the parish is suffering from a relevant medical condition the parochial authority must serve a notice on the licence holder requiring the holder to undergo a medical examination or to take a test to prove that he or she can continue to drive motor vehicles without being a danger to the public. The parochial authority can also suspend the operation of the licence in the meantime.

Depending upon the results of the examination or test the parochial authority can revoke the licence, suspend the licence until its holder has recovered or amend the licence to limit the types of vehicles that can be driven.

If a licence is revoked, suspended or altered as a result of the examination or test the licence holder may appeal to the Royal Court.

Road Traffic (Jersey) Law 1956

ROAD TRAFFIC (No. 52) (JERSEY) REGULATIONS 200

(Promulgated on the _____ day of _____ 200-)

STATES OF JERSEY

The _____ day of _____ 200-

THE STATES, in pursuance of the powers conferred on them by the Order in Council of the twenty-sixth day of December 1851^[1] and Article 49 of the Road Traffic (Jersey) Law 1956, as amended,^[2] have made the following Regulations -

1. For Article 5 of the Road Traffic (Jersey) Law 1956, as amended,^[3] there shall be substituted the following Articles -

“ARTICLE 5

Physical fitness to drive - before grant of licence

(1) An applicant for the grant of a licence must make a declaration in the prescribed form as to the applicant's physical fitness to drive a motor vehicle.

(2) The declaration shall require the applicant to state whether the applicant is suffering from, or has at any time or during any specified period suffered from a relevant disease or physical disability.

(3) For the purpose of this Article a disease or physical disability in respect of an application for a licence is a relevant disease or physical disability if -

- (a) it is a disease or physical disability prescribed for the purpose of this Article; or
- (b) it is a disease or disability that is likely to cause the driving by the applicant of any motor vehicle the applicant would be authorized by the licence to drive to be a source of danger to the public.

(4) Except as otherwise provided by this Article, a parochial authority shall refuse to grant a licence if it is satisfied either from the declaration or on enquiry that the applicant is suffering from or has suffered from a relevant disease or physical disability.

(5) In the case of a relevant disease or physical disability prescribed for the purpose of this paragraph, the parochial authority shall not refuse to grant a licence by virtue of paragraph (4) if the applicant satisfies any prescribed condition.

(6) Except in the case of a physical disability prescribed for the purpose of this paragraph, an applicant who as a result of a physical disability has been refused a licence by virtue of paragraph (4) may apply to take the prescribed test to prove that he can drive without being a source of danger to the public each type of motor vehicle he would be authorized to drive by the licence.

(7) A person who has applied to take the prescribed test by virtue of paragraph (6) shall, on payment of the prescribed fee, be permitted to take that test.

(8) A person to whom paragraph (7) applies shall, on payment of the prescribed fee, be granted a provisional licence for the purpose of taking the prescribed test and for preparing to do so.

(9) A provisional licence referred to in paragraph (8) shall, in addition to the prescribed conditions, be

granted subject to such conditions as the licensing authority consider it appropriate to impose having regard to the nature of the applicant's physical disability.

(10) If the applicant passes the prescribed test the parochial authority shall not, by virtue of paragraph (4), refuse to grant the licence applied for.

(11) However, where the test indicates that the applicant is not competent to drive vehicles except of a particular construction or design (which may include an invalid carriage) any licence granted by virtue of paragraph (10) shall be limited to the driving of those vehicles.

(12) A person aggrieved by a refusal by a parochial authority to grant a licence by virtue of a disease or physical disability, or by any limitation imposed by the parochial authority on a licence by virtue of paragraph (11) may appeal to the Royal Court after giving the parochial authority notice of his intention to do so.

(13) On the appeal the Court may make any order it considers appropriate.

ARTICLE 5A

Physical fitness to drive - after grant of licence

(1) For the purpose of this Article the holder of a licence is suffering from a relevant disease or physical disability if -

- (a) it is a disease or physical disability prescribed for the purpose of this Article; or
- (b) the disease or physical disability is likely to cause the driving by him of any motor vehicle his licence authorizes him to drive to be a source of danger to the public.

(2) A licence holder shall forthwith notify his parochial authority in writing if he becomes aware -

- (a) that he is suffering from a relevant disease or physical disability that he has not previously disclosed to the parochial authority; or
- (b) that a relevant disease or physical disability that he is suffering from or has at any time suffered from and that he has previously disclosed to the parochial authority has become more acute or reoccurred.

(3) Article (2) does not apply where -

- (a) the relevant disease or physical disability is not one the holder of the licence has previously suffered from; and
- (b) there are reasonable grounds for believing that the duration of the disease or disability will not extend beyond the period of 3 months beginning with the date on which the holder of the licence first became aware that he was suffering from it.

(4) A person who fails to comply with paragraph (2) shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[4]

(5) Where a parochial authority in respect of a parish has reason to suspect (whether by virtue of a notice under paragraph (2) or otherwise) that the holder of a licence residing in the parish is suffering from a relevant disease or physical disability the parochial authority shall serve a written notice in the prescribed form on the holder of the licence.

(6) The notice shall require the holder of the licence within 7 days of its service -

- (a) to undergo, at his own expense, a medical examination by a medical practitioner designated by the parochial authority; or
- (b) in the case of a physical disability, to apply to take the prescribed test.

(7) Where the parochial authority believes it is in the public interest to do so it may also suspend the

validity of the licence until the results of the medical examination are known or the prescribed test has been taken, as the case may be.

(8) Where a licence holder is required to take the prescribed test by virtue of a physical disability a suspension of a licence under paragraph (7) does not prevent the licence holder from driving a motor vehicle to the extent that it is necessary to do so for the purpose of preparing for and taking the prescribed test but any such driving shall be undertaken subject to such conditions as the licensing authority consider it appropriate to impose having regard to the nature of the licence holder's physical disability.

(9) Except as otherwise provided by this Article, a parochial authority shall revoke the licence of a person upon whom a notice has been served in accordance with paragraph (5) if it is satisfied from the medical examination or the prescribed test that the person is suffering from a relevant disease or physical disability.

(10) Where the medical examination indicates that a person is suffering from a relevant disease or physical disability but that there are reasonable grounds for believing that the duration of the disease or disability is limited the parochial authority shall not revoke the licence but shall suspend it or continue its suspension until the parochial authority is satisfied that the person has ceased to suffer from the disease or disability.

(11) Where the medical examination indicates that a person is suffering from a relevant disease or physical disability prescribed for the purpose of this paragraph, the parochial authority shall not revoke the person's licence if the person satisfies any prescribed condition.

(12) Where a prescribed test indicates that the holder of a licence is not competent to drive vehicles except of a particular construction or design (which may include an invalid carriage) the parochial authority shall not revoke the licence but shall limit it to the driving of those vehicles.

(13) The parochial authority shall revoke the licence of a person upon whom it has served a notice in accordance with paragraph (5) if the person fails to undergo a medical examination or to apply to take the prescribed test, as the case may be, within 7 days of the service of the notice, or, having applied to take the prescribed test, fails to take it.

(14) The parochial authority may, for good cause, extend a period of 7 days referred to in paragraph (6) or allow a person a further period within which to take the prescribed test.

(15) A person aggrieved by the revocation or suspension of a licence by a parochial authority by virtue of a disease or physical disability, or by any limitation imposed by the parochial authority on a licence by virtue of paragraph (11) may appeal to the Royal Court after giving the parochial authority notice of his intention to do so.

(16) On the appeal the Court may make any order it considers appropriate.

(17) If a parochial authority revokes, suspends or amends a licence in accordance with this Article, the holder of the licence shall forthwith deliver it to that parochial authority.

(18) A person who fails to comply with paragraph (17) shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale.^[5].

2. These Regulations may be cited as the Road Traffic (No. 52) (Jersey) Regulations 200~~0~~ and shall come into force on the first day of January 2002.

[1] Recueil des Lois, Tomes I-III, page 196.

[2] Recueil des Lois, Tome VIII, page 636.

[3] Recueil des Lois, Tome VIII, page 589 and Nos. 7081, 8077 and 8624.

[4] Volume 1992-1993, page 437.

[5] Volume 1992-1993, page 437.