



Jersey

ROAD TRAFFIC (No. 59) (JERSEY) REGULATIONS 2009

Arrangement

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Made 7th October 2009

Coming into force 14th October 2009

THE STATES, in pursuance of Order in Council of 26th December 1851¹ and Article 92 of the Road Traffic (Jersey) Law 1956², have made the following Regulations –

1 Interpretation

In these Regulations, “the Law” means the Road Traffic (Jersey) Law 1956³.

2 Article 1 of Road Traffic (Jersey) Law 1956 amended

In Article 1(1) of the Law, in the definition “motoring offence”, for the words “Article 29(4) or 30(7)” there shall be substituted the words “Article 29(4), 30(7) or 30B(4)”.

3 Article 26 amended

(1) In Article 26(1) of the Law –

- (a) in sub-paragraph (b), the word “or” shall be deleted in the third place in which it occurs;
- (b) in sub-paragraph (c), for the word “it,” there shall be substituted the words “it; or”;
- (c) after sub-paragraph (c) there shall be added the following new sub-paragraph –

“(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.”

(2) In Article 26(6) of the Law, for the words “Article 27, 28 or 30” there shall be substituted the words “Article 27, 28, 30 or 30B”.

4 Article 27 amended

In Article 27(6) of the Law, for the words “Article 26, 28 or 30” there shall be substituted the words “Article 26, 28, 30 or 30B”.

5 Article 28 amended

In Article 28(3) of the Law, for the words “Article 26, 27 or 30” there shall be substituted the words “Article 26, 27, 30 or 30B”.

6 Article 30 amended

In Article 30(9) of the Law, for the words “Article 26, 27 or 28” there shall be substituted the words “Article 26, 27, 28 or 30B”.

7 New Articles 30A and 30B inserted

After Article 30 of the Law there shall be inserted the following Articles –

“30A Specimens of blood from persons who cannot consent

- (1) A police officer may ask a registered medical practitioner to take a specimen of blood from a person, whether or not that person consents, if the conditions in paragraph (2) are fulfilled.
- (2) The conditions are –
 - (a) that the person concerned is one from whom the police officer may under Article 30 (in the absence of any incapacity of that person and of any objection under Article 32) require the provision of a specimen of blood for a laboratory test;
 - (b) that it appears to that police officer that the person has been involved in an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter;
 - (c) that it also appears to that police officer that the person is or may be incapable of giving consent to the taking of a specimen of blood; and
 - (d) that it also appears to that police officer that the person’s incapacity is attributable to medical reasons.
- (3) A request under paragraph (1) shall not be made to a registered medical practitioner who for the time being has any responsibility for the clinical care of the person concerned (other than the responsibility that would arise in respect of the taking of the specimen of blood).
- (4) A request under paragraph (1) shall not be made to a registered medical practitioner other than a police medical practitioner, unless –

- (a) it is not reasonably practicable for the request to be made to a police medical practitioner; or
 - (b) it is not reasonably practicable for a police medical practitioner who is willing to do so to take the specimen of blood.
- (5) It shall be lawful for a registered medical practitioner to whom a request is made under paragraph (1), if he or she thinks fit to do so –
- (a) to take a specimen of blood from the person concerned, whether or not that person consents; and
 - (b) to provide the sample to a police officer.
- (6) In this Article –
- (a) ‘the person concerned’ means the person from whom a police officer under paragraph (1) asks a registered medical practitioner to take a specimen of blood;
 - (b) ‘police medical practitioner’ means a registered medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of the Honorary Police or the States of Jersey Police Force; and
 - (c) it is immaterial for the purposes of the condition in paragraph (2)(c) that the person concerned has or has not purported to give consent to the taking of a specimen of blood.

30B Testing of blood taken under Article 30A

- (1) If a specimen of blood is taken under Article 30A, it shall not be subjected to a laboratory test unless the conditions in paragraph (2) of this Article are fulfilled.
- (2) The conditions are –
- (a) that the person from whom the specimen of blood was taken has been informed that it was taken;
 - (b) that he or she has been required by a police officer to give permission for a laboratory test of the specimen; and
 - (c) that he or she has given permission.
- (3) A police officer shall, on requiring a person to give his or her permission for the purposes of this Article for a laboratory test of a specimen of blood, warn that person that a failure to give the permission may render the person liable to prosecution.
- (4) A person who, without reasonable excuse, fails to give his or her permission for a laboratory test of a specimen of blood that has been taken from the person under Article 30A shall be guilty of an offence and liable to a fine not exceeding £2000 or to

imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

- (5) A person convicted of an offence under paragraph (4) shall, unless the court for special reasons thinks fit to order otherwise and without prejudice to the power of the court to order a longer period of disqualification, in the case of a first offence, be disqualified for a period of 12 months 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 or 30."

8 Article 32 amended

- (1) In Article 32(1) of the Law, after the words "he or she shall not be required" there shall be inserted the words "under Article 30".
- (2) In Article 32 of the Law, after paragraph (2) there shall be added the following paragraphs –
 - "(3) While a person is at a hospital as a patient, no specimen of blood shall be taken from the person under Article 30A, and he or she shall not be required to give permission for a laboratory test of a specimen taken under that Article, unless –
 - (a) the registered medical practitioner in immediate charge of the person's case has been notified of the proposal to take the specimen or to make the requirement; and
 - (b) the medical practitioner has not objected on the ground specified in paragraph (4).
 - (4) The ground on which the registered medical practitioner may object is that the taking of the specimen, the requirement to give permission or the warning required under Article 30B(3) would be prejudicial to the proper care and treatment of the patient."

9 Article 33 amended

- (1) In Article 33 of the Law –
 - (a) in paragraph (2), after the words "blood or urine provided by" there shall be inserted the words "or taken from";
 - (b) in paragraph (2), after the words "the specimen was not provided" there shall be inserted the words "or taken";
 - (c) in paragraph (3)(a), after the words "before providing the specimen" there shall be inserted the words "or having it taken,";
 - (d) in paragraph (4), after the words "registered medical practitioner" there shall be added the following words –
 - “, or it was taken from the accused by a registered medical practitioner under Article 30A and the accused subsequently gave his or her permission for a laboratory test of the specimen”.

- (2) After Article 33(5) of the Law there shall be added the following paragraph –

“(6) Where a specimen of blood was taken from the accused under Article 30A, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless –

- (a) the specimen in which the alcohol or drug was found is one of 2 parts into which the specimen taken from the accused was divided at the time it was taken; and
- (b) any request to be supplied with the other part that was made by the accused at the time when he or she gave permission for a laboratory test of the specimen was complied with.”.

10 Article 35 amended

In Article 35(1) of the Law, for the words “27, 28 or 30” there shall be substituted the words “27, 28, 30 or 30B”.

11 Article 36 amended

In Article 36(1), in the Table, in relation to the offence in the first column “causing death by careless driving when under the influence of drink or drugs (Article 26)”, there shall be added in the corresponding entry in the second column, after the provision “failing to provide a specimen for analysis or laboratory test (Article 30)”, the following provision –

“failing to give permission for a laboratory test of a specimen (Article 30B)”.

12 Schedules 1 and 3 amended

- (1) Schedule 1 to the Law shall be amended by inserting, under the sub-heading “C. OFFENCES AGAINST THE ROAD TRAFFIC (JERSEY) LAW 1956.”, after the entry relating to Article 30(7), the following entry –

“Article 30B(4) (failing to give permission for laboratory test of specimen of blood);”.

- (2) Schedule 3 to the Law shall be amended –

- (a) in the entry relating to Article 21, by inserting after the figures “30” the figures “, 30B”;
- (b) in the entry relating to Article 25, by inserting after the figures “30” the figures “, 30B”;
- (c) by inserting, after the entry relating to Article 30(7), the following entry –

“Article 30B(4) – failing to give permission for a laboratory test of specimen of blood”.

13 Citation and commencement

- (1) These Regulations may be cited as the Road Traffic (No. 59) (Jersey) Regulations 2009.
- (2) These Regulations shall come into force on the seventh day after they are made.

A.H. HARRIS

Deputy Greffier of the States

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- ¹ *chapter 23.350*
² *chapter 25.550*
³ *chapter 25.550*