

GUERNSEY STATUTORY INSTRUMENT

2008 No. - 91

**The Aviation (Bailiwick of Guernsey) Law, 2008
(Amendment of Schedule 13) Regulations, 2008**

<i>Made</i>	<i>16th December, 2008</i>
<i>Coming into operation</i>	<i>1st February, 2009</i>
<i>Laid before the States</i>	<i>, 2009</i>

THE STATES COMMERCE AND EMPLOYMENT DEPARTMENT, in exercise of the powers conferred on it by section 165(2) of the Aviation (Bailiwick of Guernsey) Law, 2008^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Amendment of paragraph 5 of Schedule 13 to the Law of 2008.

1. In paragraph 5 of Schedule 13 to the Aviation (Bailiwick of Guernsey) Law, 2008 (the "**Law of 2008**") –

- (a) in subparagraph (1)(b), for "subparagraph (2)" substitute "subparagraph (3)", and
- (b) for subparagraph (2) substitute the following subparagraphs -

^a Registered on the Records of the Island of Guernsey by Order of the Royal Court on 1 December 2008.

"(2) While a person is at a hospital as a patient, no specimen of blood may be taken from him under paragraph 4 and he shall not be required by an officer of police to give his permission for a laboratory test of a specimen taken under that paragraph unless the medical practitioner immediately in charge of his case -

- (a) has been notified of the proposal to take the specimen or to make the requirement, and
- (b) has not objected on the ground specified in subparagraph (3).

(3) The ground on which the medical practitioner may object is -

- (a) in a case falling within subparagraph (1), that the requirement, the provision of the specimen or the warning required under paragraph 3(10) would be prejudicial to the proper care or treatment of the patient,
- (b) in a case falling within subparagraph (2), that the taking of the specimen, the requirement or the warning required under paragraph 4(5) would be so prejudicial."

Amendment of paragraph 6 of Schedule 13 to the Law of 2008.

2. In paragraph 6 of Schedule 13 to the Law of 2008 -

- (a) in subparagraph (2) -

- (i) for "or a specimen" substitute "in a specimen",
 - (ii) after "provided by" insert "or taken from",
 - (iii) in item (a), after "provided the specimen" insert "or had it taken from him",
- (b) for subparagraph (4) substitute –
- "(4) A specimen of blood shall be disregarded unless -
- (a) it was taken from the accused with his consent by a medical practitioner, or
 - (b) it was taken from the accused by a medical practitioner under paragraph 4 and the accused subsequently gave his permission for a laboratory test of the specimen,

and evidence that a specimen of blood was taken by a medical practitioner -

- (i) with the consent of the accused, or
- (ii) in pursuance of a request of an officer of police under paragraph 4,

may be given by the production of a document purporting to certify that fact and to be signed by that medical practitioner.",

- (c) in subparagraph (5) for "such a certificate" substitute "such a statement or certificate"

(d) in subparagraph (6)(a) for "2" substitute "two", and

(e) after subparagraph (6) insert –

"(6A) Where a specimen of blood was taken from the accused under paragraph 4, 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 two 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 which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with."

Interpretation.

3. (1) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of these Regulations.

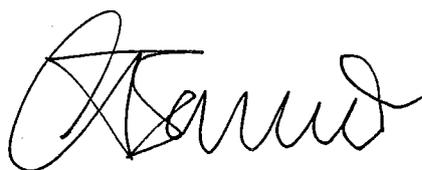
(2) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation and commencement.

^b Ordres en Conseil Vol. XIII, p. 355.

4. These Regulations may be cited as the Aviation (Bailiwick of Guernsey) Law, 2008 (Amendment of Schedule 13) Regulations, 2008 and shall come into force on the date of commencement of Part V of the Aviation (Bailiwick of Guernsey) Law, 2008.

Dated this 16th day of December, 2008



C. McNULTY BAUER

Minister of the States Commerce and Employment Department

For and on behalf of the Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend certain provisions of Schedule 13 to the Aviation (Guernsey) Law, 2008 (provisions that relate to alcohol and drug offences relevant to aviation functions) in order that those provisions are the same as relevant provisions of the Road Traffic (Drink Driving) (Guernsey) Law, 1989 (as amended) that relate to motoring.