

Island of



Guernsey

Ordinance of the States

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2008

Made13th October, 2008

Laid before the States26th November, 2008

The Road Traffic (Drink Driving) (Amendment) Ordinance, 2008

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THE LEGISLATION SELECT COMMITTEE, in pursuance of the Resolution of the States of the 27th April, 2006^a, and in exercise of the powers conferred on the States by section 10A of the Road Traffic (Drink Driving) (Guernsey) Law, 1989, as amended^b and all other relevant enabling powers, and on the Committee by Article 66(3) of the Reform (Guernsey) Law, 1948^c, hereby order:-

Amendment of Drink Driving Law of 1989.

1. The Road Traffic (Drink Driving) (Guernsey) Law, 1989, as amended, is further amended as follows.

2. In section 4(1)(b) for "subsection (2)" substitute "subsection (3)".

3. For section 4(2) substitute the following subsections -

"(2) While a person is at a hospital as a patient, no specimen of blood may be taken from him under section 3A 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 section unless the medical practitioner

^a Article XI of Billet d'État No. VIII of 2006.

^b Ordres en Conseil Vol. XXXI, p. 512; amended by Vol. XXXII, p. 391; No. V of 2004; and the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006; also amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003).

^c Ordres en Conseil Vol. XIII, p. 288; there are amendments not material to this Ordinance.

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 subsection (3).

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

(a) in a case falling within subsection (1), that the requirement, the provision of the specimen or the warning required under section 3(10) would be prejudicial to the proper care or treatment of the patient,

(b) in a case falling within subsection (2), that the taking of the specimen, the requirement or the warning required under section 3A(5) would be so prejudicial."

4. In section 5(1) after "section 1" insert ", section 1A".

5. In section 5(2) -

(a) for "or a specimen" substitute "in a specimen",

(b) after "provided by" insert "or taken from",

- (c) in paragraph (a), after "provided the specimen" insert "or had it taken from him".

6. For section 5(4) substitute the following -

"(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 section 3A 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 section 3A,

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

7. In section 5(5) for "such a certificate" substitute "such a statement or certificate".

8. In section 5(6)(a) for "one 2 of" substitute "one of two".

9. After section 5(6) insert the following subsection -

"(6A) Where a specimen of blood was taken from the accused under section 3A, 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."

Citation and commencement.

10. (1) This Ordinance may be cited as the Road Traffic (Drink Driving) (Amendment) Ordinance, 2008.

(2) This Ordinance shall come into force on the date of commencement of the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006.

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