

# ORDER IN COUNCIL

V  
2004

ratifying a Projet de Loi

ENTITLED

## The Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003

(Registered on the Records of the Island of Guernsey  
on the 29th March, 2004.)



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2004

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 29th day of March, 2004 before Sir de Vic Carey, Bailiff; present:—  
David Charles Lowe, Laurence Lenfestey Guille, Derek Martin Le  
Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson,  
David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend  
Peter Gerald Lane, Michael John Wilson, Michael Henry De La  
Mare, Michael John Tanguy, Esquires, and Susan Mowbray, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 11th day of February, 2004, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003”, THE COURT, after the reading of the said Order in Council and having heard Her Majesty’s Comptroller thereon, ORDERED:- that the said Order in Council be registered on the records of this Island.

# At the Court at Buckingham Palace

The 11th day of February, 2004

PRESENT,

## The Queen's Most Excellent Majesty in Council

THE FOLLOWING, report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“IN ACCORDANCE WITH YOUR MAJESTY’S General Order of Reference of the 22nd day of February 1952 the Committee have considered a petition of the States of Guernsey:”

“That, in pursuance of their Resolution of the 1st of August, 2002, the States of Deliberation at a meeting on the 30th October, 2003, approved a Projet de Loi entitled “The Road Traffic (Drink Drive) (Guernsey) (Amendment) Law, 2003” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the Projet de Loi is set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction “The Road Traffic (Drink Drive) (Guernsey) (Amendment) Law, 2003” and to order that it shall have force of law in the Island of Guernsey.

“THE COMMITTEE have considered the Projet de Loi and have agreed to report that it may be advisable for Your Majesty to approve and ratify it.”

HER MAJESTY, having taken the Report into consideration, was pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Island of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

HER MAJESTY'S Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty's Order and to proceed accordingly.

*G. Donald*

# PROJET DE LOI

ENTITLED

## **The Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003**

**THE STATES**, in pursuance of their Resolution of the 1<sup>st</sup> August, 2002<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

### **Amendment to the Law of 1989**

1. (1) After section 2 of the Road Traffic (Drink Driving) (Guernsey) Law, 1989<sup>b</sup> there are inserted the following sections -

#### **"Breath Tests.**

2A. (1) Where an officer of police in uniform has reasonable cause to suspect -

- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road has alcohol in his body or has committed a traffic offence whilst the vehicle was in motion;
- (b) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a

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<sup>a</sup> Article XIII of Billet d'État No. XIX of 2002.

<sup>b</sup> Ordres en Conseil Vol. XXXI, p. 512; amended by No. XXXI of 1990.

road with alcohol in his body and that that person still has alcohol in his body; or

- (c) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road and has committed a traffic offence whilst the vehicle was in motion;

he may, subject to section 4, require him to provide a specimen of breath for a breath test.

(2) If an accident occurs owing to the presence of a motor vehicle on a road, an officer of police may, subject to section 4, require any person who he has reasonable cause to believe was driving or attempting to drive or in charge of the vehicle at the time of the accident to provide a specimen of breath for a breath test.

(3) A person may be required under subsection (1) or subsection (2) to provide a specimen either at or near the place where the requirement is made or, if the requirement is made under subsection (2) and the officer of police making the requirement thinks fit, at a police station.

(4) A person who, without reasonable excuse, fails to provide a specimen of breath when required to do so in pursuance of this section is guilty of an offence.

(5) An officer of police may arrest a person without warrant if -

- (a) as a result of a breath test he has reasonable

cause to suspect that the proportion of alcohol in that person's breath or blood exceeds the prescribed limit; or

- (b) that person has failed to provide a specimen of breath for a breath test when required to do so in pursuance of this section and the officer of police has reasonable cause to suspect that he has alcohol in his body;

but a person shall not be arrested by virtue of this subsection when he is at a hospital as a patient.

(6) An officer of police may, for the purpose of requiring a person to provide a specimen of breath under subsection (2) in a case where he has reasonable cause to suspect that the accident involved injury to another person or for the purpose of arresting him in such a case under subsection (5), enter (if need be by force) any place where that person is or where the officer of police, with reasonable cause, suspects him to be.

(7) In this section -

**"breath test"** means a preliminary test for the purpose of obtaining, by means of a device of a type approved by the States Committee for Home Affairs, an indication of whether the proportion of alcohol in a person's breath or blood is likely to exceed the prescribed limit;

**"prescribed limit"** has the meaning given by section 2;

**"traffic offence"** means an offence under any of the provisions listed in the Schedule to this Law.

**Ordinances as to provision of samples for detection of drugs.**

- 2B.** (1) The States may by Ordinance provide for -
- (a) the provision of samples by a person driving, attempting to drive or in charge of a motor vehicle on a road in order to ascertain whether he has any drug in his body;
  - (b) the approval by the States Committee for Home Affairs of devices to test whether a person driving, attempting to drive or in charge of a motor vehicle on a road has any drug in his body;
  - (c) the creation of an offence of failing to provide a sample to ascertain whether a person driving, attempting to drive or in charge of a motor vehicle on a road has any drug in his body.
- (2) An Ordinance under this section -
- (a) may be amended or repealed by a subsequent Ordinance hereunder;
  - (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient,

including (without limitation) provision as to the creation and punishment of offences."

(2) In section 3(4) of the Road Traffic (Drink Driving) (Guernsey) Law, 1989 ("provision of specimens for analysis") after paragraph (b) there is inserted -

"(bb) a device of the type mentioned in subsection (1)(a) has been used at the Police Station but the officer of police who required the specimens of breath has reasonable cause to believe that the device has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned; or".

(3) After section 8(2) of the Road Traffic (Drink Driving) (Guernsey) Law, 1989 ("penalties") there is inserted -

"(2A) A person guilty of an offence under section 2A(4) is liable to a fine not exceeding level 4 on the uniform scale, and may also be disqualified for a period not exceeding 3 months from the date of conviction from holding or obtaining a driving licence."

(4) In section 10(1) of the Road Traffic (Drink Driving) (Guernsey) Law, 1989 ("interpretation") after the definition of "drug" there is inserted

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""fail" includes refuse;".

(5) After section 13 of the Road Traffic (Drink Driving)

(Guernsey) Law, 1989 ("commencement") there is inserted the Schedule set out in the Schedule to this Law.

**Citation**

2. This Law may be cited as the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003.

## SCHEDULE

Section 1(5)

### "SCHEDULE TRAFFIC OFFENCES

Section 2A(7)

Ordonnance relative au Trafic Véhiculaire en cette Île, 1929, (as amended)<sup>c</sup>

Ordonnance Supplémentaire à l'Ordonnance ayant rapport au Trafic Véhiculaire en cette Île, 1929, (as amended)<sup>d</sup>

Ordonnance portant amendement à l'Ordonnance ayant rapport en Trafic Véhiculaire en cette Île, 1929, (as amended)<sup>e</sup>

Ordonnance Supplémentaire à l'Ordonnance ayant rapport au Trafic Véhiculaire en cette Île, 1932<sup>f</sup>

Ordonnance ayant rapport au Trafic Véhiculaire en cette Île, 1935<sup>g</sup>

Road Traffic (Compulsory Third Party Insurance) (Guernsey) Law, 1936, (as amended)<sup>h</sup>

Ordonnance ayant rapport au Trafic Véhiculaire en cette Île, 1938<sup>i</sup>

Vehicular Traffic (Causing Death by Driving) Law, 1957<sup>j</sup>

Motor Vehicles (Miscellaneous Provisions) Ordinance, 1962<sup>k</sup>

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<sup>c</sup> Recueil d'Ordonnances Tome VIII, p. 184.

<sup>d</sup> Recueil d'Ordonnances Tome VIII, p. 192.

<sup>e</sup> Recueil d'Ordonnances Tome VIII, p. 194.

<sup>f</sup> Recueil d'Ordonnances Tome VI, p. 89.

<sup>g</sup> Recueil d'Ordonnances Tome VIII, p. 164.

<sup>h</sup> Ordres en Conseil Vol. X, p. 388.

<sup>i</sup> Recueil d'Ordonnances Tome VIII, p. 177.

<sup>j</sup> Ordres en Conseil Vol. XVII, p. 281.

<sup>k</sup> Recueil D'Ordonnances Tome XIII, p. 87.

Motor Vehicles and Pedal Bicycles (Warning Apparatus) Ordinance, 1966<sup>l</sup>

Road Traffic (Construction and Use of Motor Vehicles) Ordinance, 1970, (as amended)<sup>m</sup>

Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 1971<sup>n</sup>

Road Traffic (Conveyance of Plant Material) Ordinance, 1976<sup>o</sup>

Theft (Bailiwick of Guernsey) Law, 1983 (restricted to offences contrary to section 12 "Taking motor vehicle or other conveyance without authority")<sup>p</sup>

Road Traffic (Speed Limits and Trials) Ordinance, 1987<sup>q</sup>

Motor Taxation and Licensing (Guernsey) Law, 1987<sup>r</sup>

Traffic Signs and Traffic Light Signals Ordinance, 1988<sup>s</sup>

Seat Belts Ordinance, 1988<sup>t</sup>

Lighting of Vehicles and Skips Ordinance, 1988<sup>u</sup>

Driving Licences (Guernsey) Ordinance, 1995<sup>v</sup>

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<sup>l</sup> Recueil d'Ordonnances Tome XIV, p. 319.

<sup>m</sup> Recueil d'Ordonnances Tome XVI, p. 339.

<sup>n</sup> Recueil d'Ordonnances Tome XVIII, p. 324.

<sup>o</sup> Recueil d'Ordonnances Tome XX, p. 424.

<sup>p</sup> Ordres en Conseil Vol. XXVIII, p. 5.

<sup>q</sup> Recueil d'Ordonnances Tome XXIV, p. 20.

<sup>r</sup> Ordres en Conseil Vol. XXX, p. 341.

<sup>s</sup> Recueil d'Ordonnances Tome XXIV, p. 275.

<sup>t</sup> Recueil d'Ordonnances Tome XXIV, p. 328.

<sup>u</sup> Recueil d'Ordonnances Tome XXIV, p. 356.

<sup>v</sup> Recueil d'Ordonnances Tome XXVI, p. 374.