

PROJET DE LOI

ENTITLED

The Road Traffic (Drink Driving) (Guernsey) Law, 1989 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XXXI, p. 512; as amended by the: Road Traffic (Drink Driving) (Amendment) (Guernsey) Law, 1990 (No. XXXI of 1990); Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003 (No. V of 2004, Ordres en Conseil Vol. XLIV(1), p. 93); Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006 (No. XXIX of 2008); Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); Road Traffic (Drink Driving) (Amendment) Ordinance, 2008 (No. L of 2008); Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); Road Traffic (Drink Driving) (Guernsey) Law, 1989 (Amendment) Ordinance, 2025 (No. VI of 2025). See also the: Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); Resolution of the States of Guernsey of 24th April, 1991 (Billet XI, proposition 1(4)). This Law is prospectively amended by the: Road Traffic (Drink Driving) (Guernsey) Law, 1989 (Amendment) Ordinance, 2025 (*supra*).

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The Road Traffic (Drink Driving) (Guernsey) Law, 1989

ARRANGEMENT OF SECTIONS

1. Driving or being in charge, when under influence of drink or drugs.
- 1A. Causing death by careless driving when under influence of drink or drugs.
2. Driving, or being in charge, with alcohol concentration above the prescribed limit.
- 2A. Breath Tests.
- 2B. Ordinances as to provision of samples for detection of drugs.
3. Provision of specimens for analysis.
- 3A. Specimens of blood taken from persons incapable of consenting.
4. Protection for hospital patients.
5. Evidence in proceedings for an offence under section 1 or section 2.
6. Cycling when under influence of drink or drugs.
7. Drunk in charge of carriage or livestock.
8. Penalties.
9. Detention of persons affected by alcohol or a drug.
- 9A. Special reasons.
10. Interpretation.
- 10A. Power to amend Law by Ordinance.
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SCHEDULE Traffic Offences.

PROJET DE LOI

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The Road Traffic (Drink Driving) (Guernsey) Law, 1989

THE STATES, in pursuance of their Resolution of the 29th day of March, 1989, 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.

Driving or being in charge, when under influence of drink or drugs.

1. (1) A person who, when driving or attempting to drive, or when in charge of, a motor vehicle on a road is unfit to drive through drink or drugs shall be guilty of an offence.

(2) For the purposes of subsection (1) above, a person shall be deemed not to have been in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of his driving so long as he remained unfit to drive through drink or drugs but in determining whether there was such a likelihood the court may disregard any injury to him and any damage to the vehicle.

(3) For the purposes of this section, a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.

NOTE

The following cases have referred to this Law:

Law Officers of the Crown v. Help (1991) 12.GLJ.16;
Law Officers of the Crown v Help (1995) 20.GLJ.95;
Law Officers of the Crown v. Kroon (1992) 14.GLJ.13;

Law Officers of the Crown v. Russell (1991) 11.GLJ.40;
Le Billon v Law Officers of the Crown [2019]GRC039 (Unreported,
Royal Court, 9th July).

[Causing death by careless driving when under influence of drink or drugs.]

1A. (1) If a person causes the death of another person by driving a motor vehicle on a road or other public place without due care and attention, or without reasonable consideration for other persons using the road or place, and –

- (a) he is, at the time when he is driving, unfit to drive through drink or drugs,
- (b) he has consumed so much alcohol that the proportion of it in his breath, blood or urine at that time exceeds the prescribed limit, or
- (c) he is, within 18 hours after that time, required to provide a specimen in pursuance of section 3, but without reasonable excuse fails to provide it,

he is guilty of an offence.

[(1A) For the purposes of subsection (1), a person is to be regarded as driving without due care and attention if (and only if) the way the person drives falls below what would be expected of a competent and careful driver.

(1B) In determining what would be expected of a competent and careful driver in any case where a person is charged with an offence under subsection (1), regard is to be had not only to the circumstances of which the person could be expected to be aware but also to any circumstances shown to have been within the knowledge of the person.

(1C) For the purposes of subsection (1), a person ("B") is to be regarded as driving without reasonable consideration for other persons only if those persons are inconvenienced by B's driving.]

(2) For the purposes of this section a person shall be taken to be unfit to drive at any time when his ability to drive properly is impaired.]

NOTES

Section 1A was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006, section 2, with effect from 1st November, 2009.

In section 1A, subsection (1A), subsection (1B) and subsection (1C) were inserted by the Road Traffic (Drink Driving) (Guernsey) Law, 1989 (Amendment) Ordinance, 2025, section 3(3), with effect from 1st October, 2025, subject to the provisions of article 1(2) of the Road Traffic (Drink Driving) (Guernsey) Law (Amendment) Ordinance (Commencement) (No. 2) Order, 2025.

Driving, or being in charge, with alcohol concentration above the prescribed limit.

2. (1) In this section "**the prescribed limit**" means, as the case may require –

- (a) 35 microgrammes of alcohol in 100 millilitres of breath,
- (b) 80 milligrammes of alcohol in 100 millilitres of blood,
or
- (c) 107 milligrammes of alcohol in 100 millilitres of urine,

or such other proportion as may be prescribed from time to time by Ordinance.

- (2) If a person –
 - (a) drives or attempts to drive a motor vehicle on a road,
 - (b) is in charge of a motor vehicle on a road,

after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit he shall be guilty of an offence.

(3) It is a defence for a person charged with an offence under subsection (2)(b) above to prove that at the time he is alleged to have committed the offence the circumstances were such that there was no likelihood of his driving the vehicle whilst the proportion of alcohol in his breath, blood or urine remained likely to exceed the prescribed limit; but in determining whether there was such a likelihood the court may disregard any injury to him and any damage to the vehicle.

NOTE

The following cases have referred to section 2:

Law Officers of the Crown v Help (1995) 20.GLJ.95;
Law Officers of the Crown v. Russell (1991) 11.GLJ.40;
Le Billon v Law Officers of the Crown [2019]GRC039 (Unreported, Royal Court, 9th July).

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 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.]

NOTES

Section 2A was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003, section 1(1), with effect from 29th March, 2004.

In section 2A, the words in square brackets in the definition of the expression "breath test" in subsection (7) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

[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.]

NOTES

Section 2B was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003, section 1(1), with effect from 29th March, 2004.

In section 2B, the words in square brackets in paragraph (b) of subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016.³

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁴

Provision of specimens for analysis.

3. (1) In the course of an investigation whether a person has committed an offence under section 1[, section 1A] or section 2 of this Law, an officer of police may, subject to the following provisions of this section and section 4 below, require him –

- (a) to provide two specimens of breath for analysis by

means of a device approved by the [Committee for Home Affairs], or

- (b) to provide a specimen of blood or urine for a laboratory test.

(2) If an accident occurs owing to the presence of a motor vehicle on a road, an officer of police may –

- (a) if he has reasonable cause to believe that a person was driving or attempting to drive or was in charge of the vehicle at the time of the accident, and
- (b) if he has reasonable cause to suspect that person of having committed an offence under section 1(1) or section 2(2) of this Law,

require that person to provide a specimen of breath, blood or urine in the same manner as under subsection (1) of this section, for a laboratory test.

(3) A requirement under this section to provide specimens of breath can only be made at a police station.

(4) A requirement under this section to provide a specimen of blood or urine can only be made at a police station or at a hospital; and it cannot be made at a police station unless –

- (a) the officer of police making the requirement has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required, or

- (b) at the time the requirement is made a device or a reliable device of the type mentioned in subsection (1)(a) is not available at the police station or it is then for any other reason not practicable to use such a device there, or
- [(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]
- (c) the suspected offence is one under section 1 of this Law and the officer of police making the requirement has been advised by a medical practitioner [or designated healthcare professional] that the condition of the person required to provide the specimen might be due to some drug,

but may then be made notwithstanding that the person required to provide the specimen has already provided or been required to provide two specimens of breath.

(5) If the provision of a specimen other than of breath may be required under this section, the question of whether it is to be a specimen of blood or a specimen of urine[, and in the case of a specimen of blood, the question of who is to be asked to take the specimen,] shall be at the discretion of the officer of police making the requirement, except that [the specimen shall be a specimen of urine if –

- (a) the medical practitioner who is asked to take the

specimen is of the opinion that, for medical reasons, a specimen of blood cannot or should not be taken, or

- (b) the designated healthcare professional who is asked to take the specimen is of that opinion and there is no contrary opinion from a medical practitioner.]

(6) An officer of police making a requirement under subsection (4) above shall not be obliged to mention to the person required to provide the specimen what the alternatives were.

(7) The specimen of urine shall be provided within one hour of the requirement for the provision being made and after the provision of a previous specimen of urine.

(8) [...] [Of] any two specimens of breath provided by any person in pursuance of this section that with the lower proportion of alcohol in the breath shall be used and the other shall be disregarded.

[(8A) ...]

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

(10) On requiring any person to provide a specimen in pursuance of this section an officer of police shall warn him that a failure to provide it may render him liable to prosecution.

(11) If it is established that the accused, when requested by an officer of police under this section, refused to consent to the taking or providing of a

specimen of breath, blood or urine for analysis, his refusal may, unless reasonable cause therefore is shown, be treated as supporting any evidence given on behalf of the prosecution, or as rebutting any evidence given on behalf of the defence with respect to his state of mind or condition at that time.

NOTES

In section 3,

the words in square brackets in subsection (1) were inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006, section 3, with effect from 1st November, 2009;

first, the words in square brackets in subsection (4)(c) were inserted, second, the words in the first pair of square brackets in subsection (5) were inserted and, third, those in the second pair of square brackets therein were substituted, fourth, the words omitted in the first pair of square brackets in subsection (8) (which words were originally inserted, in part, by the Road Traffic (Drink Driving) (Amendment) (Guernsey) Law, 1990, section 1(a), with effect from 19th February, 1991) were repealed and, fifth, subsection (8A) (which subsection was originally inserted by the Road Traffic (Drink Driving) (Amendment) (Guernsey) Law, 1990, section 1(b), with effect from 19th February, 1991) was repealed by the Road Traffic (Drink Driving) (Guernsey) Law, 1989 (Amendment) Ordinance, 2025, respectively section 6(5)(d)(ii), section 6(6)(a), section 6(6)(b), section 6(8) and section 6(9), with effect from 12th May, 2025;

paragraph (bb) of subsection (4) was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003, section 1(2), with effect from 29th March, 2004;

subsection (8A) was inserted by the Road Traffic (Drink Driving) (Amendment) (Guernsey) Law, 1990, section 1(b), with effect from 19th February, 1991;

the word in the second pair of square brackets in subsection (8) was inserted by the Road Traffic (Drink Driving) (Amendment) (Guernsey) Law, 1990, section 1(a), with effect from 19th February, 1991.

The following Order has been made under section 3:

Road Traffic (Drink Driving) (Approved Device) (Guernsey) Order, 1990.

The following cases have referred to section 3:

Law Officers of the Crown v Help (1995) 20.GLJ.95;
Law Officers of the Crown v. Kroon (1992) 14.GLJ.13.

In accordance with their Resolution of 24th April, 1991, concerning Billet d'État No. XI, dated 12th April, 1991, the States directed that the Island Police Committee as established under Article 2 of the Loi ayant rapport à la Police Salariée pour l'Île entière, 1920, the States Committees (Amendment) Law, 1948 and the Police Committee (Amendment) Law, 1990 should be the States Committee for Home Affairs. The functions, rights and liabilities of the States Committee for Home Affairs and of its President arising under or by virtue of this Law were transferred to and vested in, respectively, the Home Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were subsequently transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

[Specimens of blood taken from persons incapable of consenting.]

3A. (1) An officer of police may make a request to a medical practitioner [or designated healthcare professional] for him to take a specimen of blood from a person ("**the person concerned**") irrespective of whether that person consents if –

- (a) that person is a person from whom the officer of police would (in the absence of any incapacity of that person and of any objection under section 4) be entitled under section 3 to require the provision of a specimen of blood for a laboratory test,
- (b) it appears to the officer of police that that 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) it appears to the officer of police that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood, and
 - (d) it appears to the officer of police that that person's incapacity is attributable to medical reasons.
- (2) A request under this section –
- (a) shall not be made to a medical practitioner [or designated healthcare professional] who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned, and
 - (b) shall not be made to a medical practitioner [or designated healthcare professional] other than a police medical [or healthcare] practitioner unless –
 - (i) it is not reasonably practicable for the request to be made to a police medical [or healthcare] practitioner, [or]
 - (ii) it is not reasonably practicable for such a [...] practitioner (assuming him to be willing to do so) to take the specimen.
- (3) It shall be lawful for a medical practitioner [or designated healthcare professional] to whom the request is made under this section, if he thinks fit –

- (a) to take a specimen of blood from the person concerned irrespective of whether that person consents, and
- (b) to provide the sample to an officer of police.

(4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken –

- (a) has been informed that it was taken, and
- (b) has been required by an officer of police to give his permission for a laboratory test of the specimen, and
- (c) has given his permission.

(5) An officer of police must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission may render him liable to prosecution.

(6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.

[(7) In this section, "**police medical or healthcare practitioner**" means a medical practitioner or designated healthcare professional who is engaged under any agreement to provide medical or health care services for purposes connected with the activities of the salaried police force of the Island of Guernsey.]]

NOTES

Section 3A was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006, section 4, with effect from 1st November, 2009.

In section 3A, first, the words in square brackets in subsection (1), second, the words in square brackets in subsection (2)(a), third, the words in the first pair of square brackets in subsection (2)(b), fourth, the words in the second and third pairs of square brackets therein and, fifth, the word in square brackets at the end of subsection (2)(b)(i) were all inserted, sixth, the word omitted in square brackets in subsection (2)(b)(ii) was repealed, seventh, the words in square brackets in subsection (3) were inserted and, eighth, subsection (7) was substituted by the Road Traffic (Drink Driving) (Guernsey) Law, 1989 (Amendment) Ordinance, 2025, respectively section 7(2), section 7(3)(a), section 7(3)(b)(i), section 7(3)(b)(ii), section 7(3)(b)(iii), section 7(3)(b)(iv), section 7(4) and section 7(5), with effect from 12th May, 2025.

Protection for hospital patients.

4. (1) While a person is at a hospital as a patient he shall not be required to provide a specimen of breath for a breath test or to provide a specimen for a laboratory test unless the medical practitioner immediately in charge of his case has been notified of the proposal to make the requirement; and –

- (a) if the requirement is made it shall be for the provision of a specimen at the hospital, but
- (b) if the medical practitioner objects on the ground specified in [subsection (3)] below the requirement shall not be made.

[(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 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.]

NOTES

In section 4,

subsection (2), and the word, figures and parentheses in paragraph (b) of subsection (1), were substituted by the Road Traffic (Drink Driving) (Amendment) Ordinance, 2008, respectively section 3 and section 2, with effect from 1st November, 2009;

subsection (3) was inserted by the Road Traffic (Drink Driving) (Amendment) Ordinance, 2008, section 3, with effect from 1st November, 2009.

Evidence in proceedings for an offence under section 1 or section 2.

5. (1) The following provisions apply to proceedings for an offence under section 1[, section 1A] or section 2 of this Law.

(2) Evidence of the proportion of alcohol or any drug [in a

specimen] of breath, blood or urine provided by [or taken from] the accused shall, in all cases, be taken into account, and it shall be assumed that the proportion of alcohol in the accused's breath, blood or urine at the time of the alleged offence was not less than in the specimen; but if the proceedings are for an offence under section 2 of this Law, or for an offence under section 1 of this Law in a case where the accused is alleged to have been unfit through drink, the assumption shall not be made if the accused proves –

- (a) that he consumed alcohol after he had ceased to drive, attempt to drive or be in charge of a motor vehicle on a road and before he provided the specimen [or had it taken from him], and
- (b) that if he had not done so the proportion of alcohol in his breath, blood or urine would not have exceeded the prescribed limit, and, if the proceedings are for an offence under section 1 of this Law, would not have been such as to impair his ability to drive properly.

(3) Evidence of the proportion of alcohol or a drug in a specimen of breath, blood or urine may, subject to subsections (5) and (6) below, be given by the production of a document purporting to be whichever of the following is appropriate –

- (a) a statement (including any test record document) automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by an officer of police (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time

shown in the statement, and

- (b) a certificate signed by an authorised analyst as to the proportion of alcohol or any drug found in a specimen of blood or urine identified in the certificate.

[(4) A specimen of blood shall be disregarded unless –

- (a) it was taken from the accused with his consent by a medical practitioner [or designated healthcare professional], or
- (b) it was taken from the accused by a medical practitioner [or designated healthcare professional] 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 [or designated healthcare professional] –

- (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 [the medical practitioner or designated healthcare professional who took that specimen] .]

(5) A document purporting to be [such a statement or certificate], or both, as is mentioned in subsection (3)(a) above is admissible in evidence under

this section only if a copy of it either has been handed to the accused when the document was produced or has been served on him not less than 7 days before the hearing, and any other document is so admissible only if a copy of it has been served on the accused not later than 7 days before the hearing; but no document is admissible if the accused not later than 3 days before the hearing, or within such time as the court may in exceptional circumstances allow, has served notice on Her Majesty's Procureur requiring the attendance at the hearing of the purported signatory of the document.

(6) Where at the time a specimen of blood or urine was provided by the accused, he asked to be supplied with such a specimen, evidence of the proportion of alcohol or any drug found in the specimen is not to be 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 provided by the accused was divided at the time it was provided,
- (b) the other part was supplied to the accused within a reasonable time.

[(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.]

(7) A copy of a certificate required by this section to be served on the accused or a notice required by this section to be served on Her Majesty's Procureur may be served personally or sent by registered post or recorded delivery service.

NOTES

In section 5,

the words in, first, square brackets in subsection (1), second, the second pair of square brackets in subsection (2) and, third, square brackets in paragraph (a) of subsection (2) were inserted by the Road Traffic (Drink Driving) (Amendment) Ordinance, 2008, respectively section 4, section 5(b) and section 5(c), with effect from 1st November, 2009;

subsection (4), the words in the first pair of square brackets in subsection (2), the words in square brackets in subsection (5) and the words in square brackets in paragraph (a) of subsection (6) were substituted by the Road Traffic (Drink Driving) (Amendment) Ordinance, 2008, respectively section 6, section 5(a), section 7 and section 8, with effect from 1st November, 2009;

first, the words "or designated healthcare professional" in square brackets, wherever occurring within subsection (4), were inserted and, second, the words in the fourth pair of square brackets within that subsection were substituted by the Road Traffic (Drink Driving) (Guernsey) Law, 1989 (Amendment) Ordinance, 2025, respectively section 9(5)(a) and section 9(5)(b), with effect from 12th May, 2025;

subsection (6A) was inserted by the Road Traffic (Drink Driving) (Amendment) Ordinance, 2008, section 9, with effect from 1st November, 2009.

The following cases have referred to section 5:

*Law Officers of the Crown v. Help (1991) 12.GLJ.16;
Law Officers of the Crown v Help (1995) 20.GLJ.95.*

Cycling when under influence of drink or drugs.

6. (1) A person who, when riding a cycle, on a road, is unfit to ride through drink or drugs shall be guilty of an offence.

(2) An officer of police may arrest without warrant any person he has reasonable cause to suspect of committing an offence under this section.

(3) In this section "**unfit to ride through drink or drugs**" means being under the influence of drink or a drug to such an extent as to be incapable of having proper control of the cycle.

Drunk in charge of carriage or livestock.

7. A person who is drunk while in charge on any road of any carriage or livestock shall be guilty of an offence.

Penalties.

8. (1) A person guilty of an offence under section 1 or section 2 of this Law shall be liable –

- (a) on summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding level 5 on the uniform scale, or to both,
- (b) on conviction on indictment, to imprisonment for a term not exceeding twelve months or to a fine, or to both.

[(1A) A person guilty of an offence under section 1A –

- (a) is liable on conviction on indictment to imprisonment for a term not exceeding 14 years, or to a fine, or to both, and

- (b) shall also be disqualified from holding or obtaining a driving licence for a period of not less than 2 years from the date of conviction, unless the court for special reasons thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.]

(2) A person guilty of an offence under section 3(9) [or 3A(6)] of this Law shall be liable[...] –

- (a) where the specimen was required to ascertain ability to drive or the proportion of alcohol at the time the offender was driving or attempting to drive [or was in charge of a motor vehicle], to imprisonment for a term not exceeding [6 months], or to a fine not exceeding level 5 on the uniform scale, or to both,
- (b) in any other case, to imprisonment for a term not exceeding [3 months], or to a fine not exceeding level 4 on the uniform scale, or to both.

[(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.]

(3) A person convicted of an offence under section 1, section 2 or section 3(9) [or 3A(6)] if liable to punishment in accordance with subsection (2)(a) of this section, 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, be disqualified for a period of twelve months from the date of the

conviction from holding or obtaining a driving licence.

(4) A person guilty of an offence under section 6 of this Law shall be liable on summary conviction to a fine not exceeding level 4 on the uniform scale.

(5) A person guilty of an offence under section 7 of this Law shall be liable on summary conviction to a fine not exceeding level 2 on the uniform scale.

NOTES

In section 8,

subsection (1A) was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006, section 5, with effect from 1st November, 2009;

the word, figures, letter and parentheses in the first and the words in the third pairs of square brackets in subsection (2) were inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006, respectively section 6(a) and section 7(a), with effect from 1st November, 2009;

the words omitted in the second pair of square brackets in subsection (2) were repealed by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006, section 6(b), with effect from 1st November, 2009;

the words in the fourth and fifth pairs of square brackets in subsection (2) were substituted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006, respectively section 7(b) and section 8, with effect from 1st November, 2009;

subsection (2A) was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003, section 1(3), with effect from 29th March, 2004;

the word, figures, letter and parentheses in square brackets in subsection (3) were inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006, section 9, with effect from 1st November, 2009.

Detention of persons affected by alcohol or a drug.

9. A person required to provide a specimen of breath, blood or urine may thereafter be detained at a police station until it appears to an officer of police that,

were that person then driving or attempting to drive a motor vehicle on a road, he would not be committing an offence under section 1 or section 2 of this Law; but –

- (a) a person shall not be detained in pursuance of this section if it appears to an officer of police that there is no likelihood of his driving or attempting to drive a motor vehicle whilst his ability to drive properly is impaired or whilst the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit, and
- (b) an officer of police shall consult a medical practitioner on any question arising under this section whether a person's ability to drive properly is or might be impaired through drugs and shall act on the medical practitioner's advice.

[Special reasons.]

9A. If, following the conviction of a person for an offence under any provision of this Law, the court finds a special reason for not disqualifying the person for the offence, it may nonetheless proceed to impose a disqualification for any period of time if, in the opinion of the court, it is warranted because of the person's standard of driving at the time of the commission of the offence.]

NOTE

Section 9A was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006, section 10, with effect from 1st November, 2009.

Interpretation.

- 10.** (1) In this Law, except where the context otherwise requires –

"authorised analyst" means a person for the time being authorised to act as an analyst for the purposes of this Law by the [Committee for Home Affairs],

"carriage" means any wheeled vehicle, not being a motor vehicle, propelled by a man or an animal,

"cycle" means a bicycle, tricycle or cycle having four or more wheels, not being in any case a motor vehicle,

[**"designated healthcare professional"** means –

- (a) any person registered as a nurse in the register kept by the Committee for Health & Social Care under section 3 of the Registered Health Professionals Ordinance, 2006, or
- (b) any other registered health professional, within the meaning given by section 1(3) of that Ordinance, of a kind or class designated by Order of the Committee for Home Affairs,]

"driving licence" has the same meaning as in the Law entitled "Loi Supplémentaire relative aux Automobiles (Autorisations à Conduire), 1939", registered on the 17th day of June, 1939^a,

"drug" includes any intoxicant other than alcohol,

[**"fail"** includes refuse,]

^a Ordres en Conseil Vol. XI, p. 299.

"Her Majesty's Procureur" includes Her Majesty's Comptroller,

"hospital" means an institution which provides medical or surgical treatment for in-patients or out-patients,

"the Island Police Committee" means the Committee referred to in Article II of the Law entitled "Loi ayant rapport à la Police Salariée pour l'Île entière" registered on the 10th day of January, 1920^b, as amended^c,

"laboratory test" means the analysis of a specimen provided for the purpose,

"livestock" includes cattle, horses, asses, mules, hinnies, deer, sheep, pigs, goats, dogs and poultry,

"medical practitioner" means a person authorised to practise in Guernsey as a medical practitioner according to the law for the time being in force,

"motor vehicle" has the same meaning as the expression **"automobile"** has in the Law entitled "Loi relative aux Automobiles", registered on the 11th day of December, 1926^d,

"officer of police" means a member of the salaried police force of the Island of Guernsey, and within the limits of his jurisdiction, a member of the Special Constabulary of the Island of Guernsey,

b Ordres en Conseil Vol. VI, p. 176.

c Ordres en Conseil Vol. XIII, p. 249.

d Ordres en Conseil Vol. VIII, p. 56.

"road" means any road, street, lane, way or place which is a public highway or to which the public have access, and includes any road or car-park owned by the States which is not a public highway,

(2) A person does not provide a specimen of breath, blood or urine for analysis unless the specimen is sufficient to enable the analysis to be carried out, and provided in such a way as to enable the objective of the analysis to be satisfactorily achieved.

(3) A person provides a specimen of blood if and only if he consents to its being taken by a medical practitioner [or designated healthcare professional] and it is so taken.

NOTES

In section 10,

first, the definition of the expression "designated healthcare professional" in subsection (1) was inserted and, second, the words in square brackets in subsection (3) were inserted by the Road Traffic (Drink Driving) (Guernsey) Law, 1989 (Amendment) Ordinance, 2025, respectively section 12(2)(a) and section 12(3), with effect from 12th May, 2025;

the definition of the expression "fail" in subsection (1) was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003, section 1(4), with effect from 29th March, 2004.

The following Order has been made under section 10:

Road Traffic (Designated Healthcare Professionals) (Guernsey) Order, 2025.

The following case has referred to section 10:

Law Officers of the Crown v Help (1995) 20.GLJ.95.

In accordance with their Resolution of 24th April, 1991, concerning Billet d'État No. XI, dated 12th April, 1991, the States directed that the Island Police Committee as established under Article 2 of the Loi ayant rapport à la

Police Salariée pour l'Île entière, 1920, the States Committees (Amendment) Law, 1948 and the Police Committee (Amendment) Law, 1990 should be the States Committee for Home Affairs. The functions, rights and liabilities of the States Committee for Home Affairs and of its President arising under or by virtue of this Law were transferred to and vested in, respectively, the Home Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were subsequently transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

The Loi Supplémentaire relative aux Automobiles (Autorisations à Conduire), 1939 has since been repealed by the Driving Licences (Guernsey) Ordinance, 1995, section 26, Schedule 9, with effect from 1st September, 1995, subject to the savings in section 26(3) of the 1995 Ordinance.

In accordance with the provisions of the Police Force (Bailiwick of Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

Power to amend Law by Ordinance.

- 10A.** (1) The States may by Ordinance amend this Law.
- (2) An Ordinance under this Law –
- (a) may, for the avoidance of doubt –
- (i) create new offences, and
- (ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary or common law,

- (b) may be amended or repealed by a subsequent Ordinance hereunder, and
 - (c) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient.
- (3) Any power conferred by this Law to make an Ordinance may be exercised –
- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
 - (b) so as to make, as respects the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
 - (iii) any such provision either unconditionally or subject to any prescribed conditions.]
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NOTES

Section 10A was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2006, section 11, with effect from 1st November, 2009.

The following Ordinance has been made under section 10A:

*Road Traffic (Drink Driving) (Amendment) Ordinance, 2008;
Road Traffic (Drink Driving) (Guernsey) Law, 1989 (Amendment)
Ordinance, 2025.*

Repeal.

11. The Road Traffic (Driving under the Influence of Drink or Drugs) (Guernsey) Law 1986^[d] is repealed.

NOTE

The footnote in square brackets shown, incorrectly, in the printed version of this section as "d" should read "e".

Citation.

12. This Law may be cited as the Road Traffic (Drink Driving) (Guernsey) Law, 1989.

Commencement.

13. This Law shall come into operation on the 28th day after the date of its registration on the records of the Island of Guernsey.

NOTE

The Law was registered on the Records of the Island of Guernsey on 6th February, 1990.

d No. XV of 1986.

[SCHEDULE
TRAFFIC OFFENCES

Section 2A(7)

Ordonnance relative au Trafic Véhiculaire en cette Île, 1929, (as amended)^{ea}

Ordonnance Supplémentaire à l'Ordonnance ayant rapport au Trafic Véhiculaire en cette Île, 1929, (as amended)^{eb}

Ordonnance portant amendement à l'Ordonnance ayant rapport en Trafic Véhiculaire en cette Île, 1929, (as amended)^{ec}

Ordonnance Supplémentaire à l'Ordonnance ayant rapport au Trafic Véhiculaire en cette Île, 1932^{ed}

Ordonnance ayant rapport au Trafic Véhiculaire en cette Île, 1935^{ee}

Road Traffic (Compulsory Third Party Insurance) (Guernsey) Law, 1936, (as amended)^{ef}

Ordonnance ayant rapport au Trafic Véhiculaire en cette Île, 1938^{eg}

ea Recueil d'Ordonnances Tome VIII, p. 184.

eb Recueil d'Ordonnances Tome VIII, p. 192.

ec Recueil d'Ordonnances Tome VIII, p. 194.

ed Recueil d'Ordonnances Tome VI, p. 89.

ee Recueil d'Ordonnances Tome VIII, p. 164.

ef Ordres en Conseil Vol. X, p. 388.

eg Recueil d'Ordonnances Tome VIII, p. 177.

Vehicular Traffic (Causing Death by Driving) Law, 1957^{eh}

Motor Vehicles (Miscellaneous Provisions) Ordinance, 1962^{ei}

Motor Vehicles and Pedal Bicycles (Warning Apparatus) Ordinance, 1966^{ej}

Road Traffic (Construction and Use of Motor Vehicles) Ordinance, 1970, (as amended)^{ek}

Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 1971^{el}

Road Traffic (Conveyance of Plant Material) Ordinance, 1976^{em}

Theft (Bailiwick of Guernsey) Law, 1983 (restricted to offences contrary to section 12 "Taking motor vehicle or other conveyance without authority")^{en}

Road Traffic (Speed Limits and Trials) Ordinance, 1987^{eo}

Motor Taxation and Licensing (Guernsey) Law, 1987^{ep}

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- eh** Ordres en Conseil Vol. XVII, p. 281.
ei Recueil d'Ordonnances Tome XIII, p. 87.
ej Recueil d'Ordonnances Tome XIV, p. 319.
ek Recueil d'Ordonnances Tome XVI, p. 339.
el Recueil d'Ordonnances Tome XVIII, p. 324.
em Recueil d'Ordonnances Tome XX, p. 424.
en Ordres en Conseil Vol. XXVIII, p. 5.
eo Recueil d'Ordonnances Tome XXIV, p. 20.

Traffic Signs and Traffic Light Signals Ordinance, 1988^{eq}

Seat Belts Ordinance, 1988^{er}

Lighting of Vehicles and Skips Ordinance, 1988^{es}

Driving Licences (Guernsey) Ordinance, 1995^{et}]

NOTES

The Schedule was inserted by the Road Traffic (Drink Driving) (Guernsey) (Amendment) Law, 2003, section 1(5), with effect from 29th March, 2004.

The Ordonnance relative au Trafic Véhiculaire en cette Île, 1929 has since been repealed by the Road Traffic (Guernsey) Ordinance, 2019, section 16, with effect from 29th March, 2019.

The Ordonnance ayant rapport au Trafic Véhiculaire en cette Île, 1938 has since been repealed by the Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 2019, section 11(b), with effect from 29th March, 2019.

The Road Traffic (Construction and Use of Motor Vehicles) Ordinance, 1970 has since been repealed by the Road Traffic (Construction and Use of Motor Vehicles) Ordinance, 2002, section 15(c), with effect from 26th June, 2002, subject to the savings in section 16 of the 2002 Ordinance.

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- ep** Ordres en Conseil Vol. XXX, p. 341.
eq Recueil d'Ordonnances Tome XXIV, p. 275.
er Recueil d'Ordonnances Tome XXIV, p. 328.
es Recueil d'Ordonnances Tome XXIV, p. 356.
et Recueil d'Ordonnances Tome XXVI, p. 374.

1 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004.

2 The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Committee for Home Affairs and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

3 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004.

4 The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Committee for Home Affairs and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.