

Appendix 1

Proposed Medical Defence for Prescribed Medicines

Draft amendment to Article 28A – P.32/2026 Draft Road Traffic Law (Drug Driving) (Jersey) Amendment Regulations 202-

The following provision illustrates how a statutory medical defence could be incorporated into the proposed drug-driving offence in **Article 28A** of P.32/2026.

The wording is based on the safeguard contained in **section 5A of the UK Road Traffic Act 1988**, adapted to fit the existing structure of Article 28A as drafted. It is designed to ensure that individuals who have taken a controlled drug in accordance with a lawful medical prescription are not exposed to criminal liability solely because the substance remains detectable in their system, while preserving liability where driving is actually impaired.

Proposed insertion

Insert the following paragraphs after **Article 28A(8)**.

- (9) It is a defence for a person charged with an offence under paragraph (1) to prove that –
 - (a) the specified drug had been prescribed or supplied to the person for medical or dental purposes;
 - (b) the person took the specified drug in accordance with any directions given by the person by whom the drug was prescribed or supplied and any accompanying instructions; and
 - (c) the person's possession of the specified drug immediately before taking it was not unlawful under the *Misuse of Drugs (Jersey) Law 1978*.
- (10) The defence in paragraph (9) does not apply if the prosecution proves that the person drove, attempted to drive or was in charge of a motor vehicle contrary to advice given by the person by whom the specified drug was

prescribed or supplied, or contrary to advice contained in any accompanying instructions relating to the use of the specified drug.

- (11) Nothing in paragraph (9) prevents a person from being convicted of an offence under Article 27 or any other provision of this Law relating to driving while impaired.

Context

As drafted, new Article 28A creates the substantive offence of driving, attempting to drive, or being in charge of a vehicle with a concentration of a specified drug above the prescribed limit, and already contains paragraphs (2) to (8) dealing with penalty, disqualification, driving instructors, and the existing “in charge” defence. The proposed medical defence is therefore most cleanly inserted as new paragraphs (9) to (11).

When the United Kingdom introduced numerical drug-driving limits, Parliament also included a statutory medical defence in **section 5A of the Road Traffic Act 1988**. That defence protects drivers who were prescribed the drug, took it as directed, and were not using it unlawfully, while preserving liability where the person drove contrary to medical advice or was otherwise impaired.

The proposed amendment would replicate that safeguard within the Jersey legislation while maintaining full enforcement powers against drivers whose ability to drive is impaired.