

ORDER IN COUNCIL

**XXVII
1989**

ratifying a Projet de Loi

ENTITLED

The Hired Motor Vehicles (Alderney) Law, 1989

(Registered on the Records of the Island of Guernsey
on the 6th February, 1990.)



1989

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 6th day of February, 1990 before Sir Charles Frossard, Kt., Bailiff; present:— Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Raymond Arthur Heaume, Esquires, Mrs. Dorothy Winifred Le Pelley, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley and Kenneth John Rowe, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 19th day of December, 1989, approving and ratifying a *Projet de Loi* of the States of Alderney entitled "The Hired Motor Vehicles (Alderney) Law, 1989", THE COURT after the reading of the said Order and after having heard Her Majesty's Procureur thereon, ordered:—

1. That the said Order in Council be registered on the records of this Island.
2. That an extract of this present Act together with a copy of the said Order in Council be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 19th day of December 1989

PRESENT

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 13th day of December 1989 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee a humble Petition of Jon Kay-Mouat, Esquire, President of the States of Alderney, setting forth:—

‘That at a meeting of the States of Alderney held on the 6th day of September 1989 the States adopted a Resolution that a *Projet de Loi* entitled “The Hired Motor Vehicles (Alderney) Law, 1989” be approved: That at the meeting of the States aforesaid Your Humble Petitioner was authorised to present to Your Majesty in Council a Petition that the said *Projet de Loi* be sanctioned: That the said *Projet de Loi* is set forth in the Schedule hereunto annexed: and most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the *Projet de Loi* entitled “The Hired Motor Vehicles (Alderney) Law, 1989” and order that the same shall have force of Law within the Island of Alderney.’

‘THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the Projet de Loi annexed thereto into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY, having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of law within the Island of Alderney.

AND HER MAJESTY doth hereby further direct that this Order and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant-Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty’s Officers for the time being, of the said Island of Guernsey, and also the Jurats of the said Island of Alderney, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

G. I. de Deney.

PROJET DE LOI

ENTITLED

The Hired Motor Vehicles (Alderney) Law, 1989

ARRANGEMENT OF SECTIONS

Section

PART I

LICENSING OF VEHICLE HIRERS

Vehicle hirers' licences

1. Requirement for vehicle hirers' licences.
2. Maximum number of licences.
3. Applications for licences.
4. Grant or refusal of applications.
5. Issue and contents of licences.

Validity, revocation etc.

6. Validity and renewal of licences.
7. Revocation, suspension and variation of licences.

Representations and appeals

8. Representations concerning decisions of Committee.
9. Appeals against decisions of Committee.

Section

PART II

REGULATION OF VEHICLE HIRE BUSINESS

10. Conduct of vehicle hirer's business.
11. Registration of hired motor vehicles.
12. Identification, maintenance and examination of hired motor vehicles.

PART III

GENERAL AND SUPPLEMENTARY
PROVISIONS

13. Ordinances—general provisions.
14. Offences and penalties.
15. Criminal liability of directors etc.
16. Service of notices and documents.
17. Interpretation.
18. Transitional provision.
19. Citation.
20. Commencement.

PROJET DE LOI

ENTITLED

The Hired Motor Vehicles (Alderney) Law, 1989

THE STATES, in pursuance of their Resolutions of the 10th day of February 1988 and the 6th day of September 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 Alderney.

PART I

LICENSING OF VEHICLE HIRERS

Vehicle hirers' licences

1. A person shall not carry on, or hold himself out as carrying on, the business of hiring motor vehicles for reward except under and in accordance with the terms and conditions of a vehicle hirer's licence issued by the Committee under section 5 of this Law.

Require-
ment for
vehicle
hirer's
licence.

2. (1) The States may from time to time by resolution limit, subject to section 4(3),—

Maximum
number of
licences.

(a) the total number of motor vehicles;

(b) the total number of motor vehicles of any category specified in the resolution,

which the Committee may authorise to be operated under vehicle hirers' licences in force at any time during such period (which may be expressed as continuing until overridden by a subsequent resolution under this section) as may be specified in the resolution.

(2) It is hereby declared for the avoidance of doubt that a motor vehicle which is authorised to be operated under a vehicle hirer's licence in force at the beginning of any period specified in a resolution under this section—

- (a) is to be taken into account for the purposes of ascertaining whether any limit set by the resolution is completely filled or what proportion of any such limit remains unfilled; but
- (b) does not cease to be so authorised by reason only of the fact that such a limit has been set.

**Applications
for licences.**

3. (1) An application for a vehicle hirer's licence may be made to the Committee by the operator, in such form (if any) as the Committee may require, and shall—

- (a) state the name and address of the operator and the premises from which it is proposed that the business will be carried on;
- (b) specify the maximum number of:
 - (i) cars;
 - (ii) large passenger vehicles;
 - (iii) goods vehicles;
 - (iv) motor cycles; and
 - (v) other motor vehicles,
 which the applicant proposes to operate at any one time during the period of validity of the licence applied for;
- (c) be accompanied by such fee, if any, ("the licence application fee") as the States may prescribe by an Ordinance made under this paragraph;

- (d) contain, or be accompanied by, such other information, verified in such manner, as the Committee may require;
- (e) be signed—
 - (i) if the applicant is a body corporate, by a duly authorised director of that body;
 - (ii) in any other case, by the applicant.

(2) On receipt of an application made in accordance with this section the Committee may require the applicant to provide any further information (being, if the Committee so requires, information verified in a specified manner) which the Committee considers necessary or desirable to facilitate its determination of the application.

4. (1) Upon receipt of an application made in accordance with section 3(1) and any further information provided under section 3(2) the Committee may—

Grant or
refusal of
applications.

- (a) subject to subsection (2) and section 8, grant the application either:
 - (i) in respect of the number of motor vehicles of each category specified in the application pursuant to section 3(1)(b); or
 - (ii) in respect only of such lower number of vehicles of any such category as the Committee may decide,
 and either unconditionally or subject to such conditions as it considers desirable; or
- (b) subject to section 8, refuse to grant the application.

(2) Before granting or refusing an application made under section 3 the Committee shall consider—

- (a) the proportion of any limit for the time being in force, by virtue of a resolution under section 2, on the total number of motor vehicles, and on the total number of motor vehicles of any category specified in the application, which remains unfilled;
- (b) the number of motor vehicles, both in total and in each such category, in relation to which applications have been received, or are likely in the opinion of the Committee to be received during the currency of any such resolution, from other operators;
- (c) the effect which the granting of the application would be likely to have on—
 - (i) road traffic;
 - (ii) the availability of alternative modes of transport;
 - (iii) tourism;
 - (iv) the environment; and
 - (v) the economic interests of Alderney.

(3) If on the date when an application made in accordance with section 3(1) is received by the Committee any limit set by a resolution under section 2 for the time being in force is filled in respect of any category of motor vehicle specified in the application, the Committee shall refuse to grant the application in respect of vehicles in that category without considering it, unless the Committee is of the opinion that there are in that particular case exceptional circumstances which justify such consideration of the application.

5. When the Committee grants an application made under section 3 it shall issue to the operator a vehicle hirer's licence, in such form as the Committee may from time to time determine, which shall—

Issue and
contents of
licences.

- (a) state the operator's name and address and the premises from which the business is to be carried on;
- (b) specify the maximum number of:
 - (i) cars;
 - (ii) large passenger vehicles;
 - (iii) goods vehicles;
 - (iv) motor cycles; and
 - (v) other motor vehicles,

which the operator is authorised to operate at any one time during the period of validity of the licence;

- (c) set out any conditions subject to which the licence is issued.

Validity, revocation etc.

6. (1) A vehicle hirer's licence shall remain in force, unless it is previously revoked under section 7(1), until the end of the calendar year in which it is issued.

Validity and
renewal of
licences.

(2) If a licensed operator applies to the Committee on or before 30th November in any year, in such form (if any) as the Committee may require, and pays to the Committee such fee, if any, ("the licence renewal fee") as the States may prescribe by an Ordinance made under this subsection, for the renewal of his licence in respect of the following calendar year, the Committee shall renew his licence

(in respect of the same maximum number of vehicles of each category then specified in it and on the same conditions, if any, to which it is then subject) unless the Committee is satisfied that, by reason of—

- (a) a major change since the licence was issued or last renewed in any of the circumstances set out in section 4(2)(c); or
- (b) the existence of any ground on which the licence could be revoked under section 7(1),

it is undesirable to renew the licence.

(3) It is hereby declared for the avoidance of doubt that an application by a licensed operator to renew his licence in respect of more vehicles of any category than the number for the time being specified in it must be made in accordance with section 3 and may be granted or referred in accordance with section 4.

Revocation,
suspension
and variation
of licences.

7. (1) Subject to section 8, the Committee may by notice in writing served on a licensed operator—

- (a) revoke his vehicle hirer's licence;
- (b) suspend his vehicle hirer's licence for a specified period or until specified conditions have been complied with;
- (c) vary the maximum number of vehicles, or the maximum number of vehicles of a specified category, which his vehicle hirer's licence authorises him to operate at any one time;
- (d) impose a condition on, or revoke or vary a condition of, his vehicle hirer's licence,

in any of the instances mentioned in subsection (2).

(2) The instances referred to in subsection (1) are—

- (a) if the licensed operator so requests;
- (b) if the licensed operator is convicted:
 - (i) of an offence against this Law or against any Ordinance made under this Law;
 - (ii) of an offence against any enactment for the time being in force relating to road traffic or motor vehicles;
 - (iii) of an offence of dishonesty;
- (c) if the licensed operator breaches a condition of his vehicle hirer's licence;
- (d) if the licensed operator has, in the opinion of the Committee, failed repeatedly or for a significant period to operate the maximum number of vehicles, or the maximum number of vehicles of any specified category, which his vehicle hirer's licence authorises him to operate.

Representations and appeals

8. (1) Before any of the decisions mentioned in subsection (2) is taken by the Committee the procedure prescribed in this section shall be followed.

Representations concerning decisions of Committee.

(2) The decisions referred to in subsection (1) are any decision—

- (a) under section 4(1)(a), to grant an application for a vehicle hirer's licence in respect only of a lower number of vehicles of any category than the number of vehicles of that category specified in the application;
- (b) under section 4(1)(a), to grant an application for a vehicle hirer's licence subject to conditions;

- (c) under section 4(1)(b) to refuse to grant an application for a vehicle hirer's licence;
- (d) under section 7(1), to revoke, suspend, vary, impose a condition on, or vary a condition of, a vehicle hirer's licence.

(3) Before taking any decision mentioned in subsection (2) the Committee shall serve on the applicant or licensed operator concerned a notice in writing stating—

- (a) that the Committee is considering taking the decision for reasons which will be furnished in writing if that person so requests; and
- (b) that that person may, within 28 days of the date of the service of the notice, make written or oral representations to the Committee in such manner as the Committee may from time to time resolve; and
- (c) that in the event of the Committee taking the decision an appeal against the decision may be brought under section 9 of this Law.

(4) The Committee shall—

- (a) furnish written reasons why it is considering taking any decision mentioned in subsection (2) within two working days of being requested so to do in accordance with subsection (3); and
- (b) consider any representations made in response to a notice under subsection (3) before giving further consideration to the matter to which the notice relates.

(5) The period of 28 days mentioned in paragraph (b) of subsection (3) may be reduced, in any case in which the decision concerned is a decision

under section 7(1) and in which the Committee considers it necessary to reduce that period, to such period of not less than two working days as the Committee may in any particular case resolve; and if the Committee does so resolve in any particular case then paragraph (a) of subsection (4) shall have effect as if for "two working days" there were substituted "24 hours".

(6) For the purposes of this section a working day is any day other than a Saturday, a Sunday and any day declared by an Ordinance of the States to be a bank holiday.

9. (1) An applicant aggrieved by a decision of the Committee under section 4(1), or a licensed operator aggrieved by a decision of the Committee under section 7(1), may appeal to the Court against that decision on the grounds that it was ultra vires or was an unreasonable exercise of the powers of the Committee.

Appeals
against
decisions of
Committee.

(2) An appeal under this section shall be instituted—

(a) within 28 days of the date on which notice in writing of the decision was served by the Committee on the person to whom the decision relates; and

(b) by a summons served on the Chairman of the Committee stating the grounds, and setting out the material facts on which the appellant relies.

(3) On an appeal under this section, the Court may quash or confirm the decision of the Committee against which the appeal is brought, or may substitute any other decision which the Committee could have made.

(4) Subject to subsection (5), from the time of the institution of an appeal under this section, the decision of the Committee against which the appeal is brought shall not operate so as to—

- (a) require the appellant to do anything which he would not otherwise have been required to do; or
- (b) prohibit the appellant from doing anything which he could otherwise have done, unless and until the decision is confirmed by the Court or the appeal is withdrawn.

(5) The Court may, upon the application of the Committee, direct that the provisions of subsection (4) shall not have effect in any particular case; and a direction under this subsection may be given on such terms as the Court thinks just.

PART II

REGULATION OF VEHICLE HIRE BUSINESS

Conduct of
vehicle
hirer's
business.

10. (1) The States may by Ordinance make provision as to the manner in which licensed operators are to carry on the business of hiring motor vehicles for reward.

(2) Without prejudice to the generality of subsection (1) an Ordinance under this section may—

- (a) prescribe records to be kept by licensed operators and make provision for the inspection of such records by or on behalf of the Committee;
- (b) require licensed operators to display copies of their licenses at specified places and to provide specified information for hirers;

- (c) prohibit or restrict the parking on the public highway of any vehicles operated by licensed operators whilst they are available for hire but not actually hired.

11. (1) The States may by Ordinance provide for the registration of every vehicle which is used as a hired motor vehicle. Registration of hired motor vehicles.

(2) Without prejudice to the generality of subsection (1) an Ordinance under this section may—

- (a) prohibit the use or operation of a vehicle as a hired motor vehicle unless it is registered by the Committee in accordance with such an Ordinance;
- (b) make provision as to applications for registration, including the information to accompany such applications, and the fees to be paid by applicants for registration;
- (c) provide for the inspection by or on behalf of the Committee of any vehicle in respect of which an application for registration is made;
- (d) limit the period of validity of registrations and provide for their renewal and their revocation and suspension.

(3) Sections 8 and 9 apply in relation to any decision of the Committee to refuse to grant or renew a registration or to revoke or suspend a registration under any provision of an Ordinance made under this section, and in relation to a person aggrieved by such a decision, as those sections apply in relation to a decision of the Committee under section 4(1) or section 7(1), and in relation to an applicant or a licensed operator aggrieved by such a decision:

Provided that no appeal shall lie against a decision of the Committee to suspend a registration for less than 30 days.

Identifica-
tion, main-
tenance and
examination
of hired
motor
vehicles.

12. (1) The States may by Ordinance make provision for ensuring that hired motor vehicles are identifiable as such and are maintained in good condition.

(2) Without prejudice to the generality of subsection (1) an Ordinance under this section may—

(a) require there to be exhibited—

(i) inside a hired motor vehicle, in such form as may be prescribed, such details as may be prescribed of the vehicle's registration in accordance with any Ordinance made under section 11 and of the vehicle hirer's licence of its operator;

(ii) on the exterior of a hired motor vehicle, such distinguishing mark or marks as may be prescribed;

(b) make provision as to the maintenance of hired motor vehicles;

(c) provide for the examination of hired motor vehicles and, in particular, empower an officer of police to stop, detain and enter any hired motor vehicle for the purpose of making such an examination.

PART III

GENERAL AND SUPPLEMENTARY PROVISIONS

Ordinances—
general
provisions:

13. An Ordinance made under any provision of this Law may—

- (a) specify circumstances in which a person who contravenes or fails to comply with a provision of the Ordinance is guilty of an offence and prescribe the maximum penalties which may be imposed on a person convicted of such an offence;
- (b) make different provision for different cases and circumstances;
- (c) contain incidental, supplementary and transitional provisions;
- (d) be varied or revoked by a subsequent Ordinance so made.

14. (1) A person who contravenes section 1 of this Law is guilty of an offence and liable, on conviction, to a fine not exceeding level 4 on the Alderney uniform scale or to imprisonment for a term not exceeding six months or to both.

Offences and penalties.

(2) A person who makes a statement or furnishes information which he knows to be false or misleading in a material particular, or who recklessly makes a statement or furnishes information which is false or misleading in a material particular, in connection with any application—

- (a) under this Law; or
 - (b) under any Ordinance made under this Law,
- is guilty of an offence and liable, on conviction, to a fine not exceeding level 4 on the Alderney uniform scale.

15. (1) If an offence committed by a body corporate or an unincorporated body under this Law, or under any Ordinance made under this Law, is proved to have been committed with the consent or connivance

Criminal liability of directors etc.

of, or to have been attributable to any neglect by, a director, partner, manager, secretary or other similar officer of that body, or any person who was purporting to act in any such capacity, he, as well as that body, is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) For the purposes of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.

Service of
notices and
documents.

16. Any notice or document to be served by or on behalf of the Committee under this Law or under any Ordinance made under this Law shall, without prejudice to any other valid method of service, be validly served—

- (a) on any person, if delivered to him, or if left at or sent by registered post or by recorded delivery service addressed to him at, his usual or last known place of abode;
- (b) on any unincorporated body, if delivered to any partner, manager or other similar officer of that body, or if left at, or sent by registered post or by recorded delivery service to, the principal or last known principal place of business of that body;
- (c) on any body corporate if left at, or sent by registered post or by recorded delivery service to, its registered office if situate in Alderney or, if its registered office is not so situate, its principal or last known principal place of business in Alderney.

Interpreta-
tion.

17. (1) In this Law, unless the context otherwise requires,—

“application”, except in section 11, means an application for a vehicle hirer’s licence; and in section 11 “application” means an application for the registration of a vehicle as a hired motor vehicle;

“body corporate” includes a body incorporated under the law of any country or territory;

“car” means a motor vehicle designed wholly or mainly for the carriage of people and their effects but does not include a motor cycle or a large passenger vehicle;

“the Committee” means the States Public Works Committee or any other Committee specified in that behalf by an Ordinance of the States;

“the Court” means the Court of Alderney;

“goods vehicle” means a motor vehicle designed wholly or mainly for the carriage of goods or animals;

“hired motor vehicle” means a vehicle whose owner permits another person to use it, or holds himself out as being prepared to permit another person to use it, in return for payment in money or money’s worth, under a contract other than one under which ownership of the vehicle will or may pass to that other person;

“large passenger vehicle” means a motor vehicle constructed or adapted to carry more than 12 passengers exclusive of the driver;

“licence” means a vehicle hirer’s licence;

“motor cycle” means any two-wheeled motor vehicle, and any three-wheeled motor vehicle equipped with a driver’s seat of a type requiring the driver to sit outside it;

“motor vehicle” means anything which is—

(a) driven by power generated or stored in or on it; and

(b) used for the carriage of people or goods by road;

“officer of police” has the same meaning as that expression has in the Government of Alderney Law, 1987(a);

“operator” means a person who carries on the business of hiring motor vehicles for reward;

“registration”, in relation to a hired motor vehicle, means the registration of that vehicle in accordance with any Ordinance made under section 11;

“vehicle hirer’s licence” means a licence issued by the Committee under section 5.

(2) For the purposes of this Law—

(a) a vehicle is “hired” if it is for the time being the subject of a contract permitting a person other than its owner to use it in return for payment in money or money’s worth, other than a contract under which ownership of the vehicle will or may pass to that person; and a vehicle is “available for hire” if its owner holds himself out as being prepared to enter into such a contract;

(b) “cars”, “large motor vehicles”, “goods vehicles”, “motor cycles” and “other motor vehicles” each comprise a “category” of motor vehicles.

(3) In this Law—

- (a) a reference to an enactment is a reference to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment;
- (b) a reference to a numbered or lettered provision is reference to the provision so numbered or lettered in this Law, and a reference in a section to a numbered subsection is a reference to the subsection so numbered in that section;
- (c) other grammatical forms and parts of speech of words and phrases which are defined have corresponding meanings.

(4) The Interpretation (Guernsey) Law, 1948(b) applies to the interpretation of this Law as it applies to the interpretation of an enactment in force in the Island of Guernsey.

18. On the date when section 1 of this Law comes into force the Committee shall, notwithstanding any other provision of this Law, issue a vehicle hirer's licence to every person who satisfies the Committee that he has been carrying on the business of hiring motor vehicles for reward continuously since 10th February 1988, which licence shall authorise that person to operate the number of motor vehicles of each category which he satisfies the Committee that he was operating on that date. Transitional provision.

19. This Law may be cited as the Hired Motor Citation. Vehicles (Alderney) Law, 1989.

(b) Ordres en Conseil Vol. XIII, p. 355.

Commence-
ment.

20. This Law shall come into force on such date as the States may by Ordinance appoint, and different dates may be so appointed for different provisions of this Law and for different purposes.

K. H. TOUGH,

Her Majesty's Greffier.