

ORDER IN COUNCIL

**XV
2013**

ratifying a Projet de Loi

ENTITLED

The Motor Vehicles (Sark) Law, 2013

(Registered on the Records of the Island of Guernsey
on the 11th November, 2013.)



2013

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 11 th day of November, 2013 before Richard John Collas, Esquire, Bailiff; present:- Stephen Edward Francis Le Poidevin, Esquire, Susan Mowbray, Stephen Murray Jones, Terry George Snell, Niall David McCathie, Esquires, Margaret Ann Spaargaren, Terry John Ferbrache, David Allan Grut, Jonathan Grenfell Hooley, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 9th October, 2013, approving and ratifying a Projet de Loi entitled “The Motor Vehicles (Sark) Law, 2013”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ORDERED:-

1. That the said Order be registered on the records of this Island;
and
2. That an extract of this present Act, together with a copy of the said Order be sent by Her Majesty’s Greffier to the Sénéchal of Sark for registration on the records of those Islands respectively.



At the Court at Buckingham Palace

THE 9th DAY OF OCTOBER 2013

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 22 February 1952 the Committee have considered a Petition of the Chief Pleas of the Island of Sark:

"That, in pursuance of their Resolutions of 16th January 1991 and 3rd October 2012, the Chief Pleas of the Island of Sark at a meeting on 10th April 2013 approved a *Projet de Loi* entitled the Motor Vehicles (Sark) Law, 2013. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Motor Vehicles (Sark) Law, 2013, and to order that it shall have force of law in the Island of Sark.

"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 and ratify the *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 Sark 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.

Richard Tilbrook

PROJET DE LOI

ENTITLED

The Motor Vehicles (Sark) Law, 2013

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SCHEDULE: Repeals.

PROJET DE LOI

ENTITLED

The Motor Vehicles (Sark) Law, 2013

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the 16th day of January, 1991, and the 3rd day of October, 2012, 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 Sark.

PART 1

Introductory

Restriction on use of motor vehicles.

1. (1) A person may not drive or attempt to drive a motor vehicle on a public road other than –

- (a) a tractor,
- (b) an invalid carriage,
- (c) a construction vehicle, or
- (d) a combine harvester,

in accordance with the provisions of this Law.

(2) A person may not drive or attempt to drive a tractor on a public road unless –

- (a) it is for the time being licensed under and in accordance with Part 2,
- (b) he holds a driving licence granted under Part 3, and
- (c) a policy of insurance is in place in respect of it that complies with the requirements of section 33.

(3) A person may not drive or attempt to drive an invalid carriage on a public road unless –

- (a) it is for the time being licensed under and in accordance with Part 4,
- (b) he holds a driving licence granted under Part 4, and
- (c) a policy of insurance is in place in respect of it that complies with the requirements of section 33.

(4) A person may not drive or attempt to drive a construction vehicle on a public road unless –

- (a) there is in place in relation to the vehicle a construction vehicle licence under Part 5, and he is specified as an operator of the vehicle in that licence, and

- (b) a policy of insurance is in place in respect of it that complies with the requirements of section 33 (and any relevant condition in the construction vehicle licence relating to it).

(5) A person may not drive or attempt to drive a combine harvester on a public road unless a policy of insurance is in place in respect of it that complies with the requirements of section 33.

(6) The Committee may further regulate the ownership and use of combine harvesters by regulations, including, but not limited to, the introduction of systems of licensing and registration, and the payment of fees in relation to the same.

General duties of the Committee and Constable.

2. (1) The Committee must, when considering an application for the grant or renewal of a tractor licence, a construction vehicle licence or a tractor import licence, take into account –

- (a) the desirability of limiting the number of motor vehicles on Sark, and
- (b) the impact that granting the application would have on the people of Sark, and on the environment.

(2) The Committee and the Constable must, when -

- (a) suspending or revoking a licence, or
- (b) refusing to grant or renew a licence,

provide reasons in writing to the licensee or applicant (as the case may be) for the decision in question.

PART 2

Tractor licences

Application for tractor licence.

3. (1) Subject to the provisions of this Law, a person may not drive, or attempt to drive, a tractor on a public road unless the Committee has granted a licence in respect of its use in Sark (a "**tractor licence**").

(2) An applicant for a tractor licence shall make an application to the Committee in such form and accompanied by such information, including information about the nature and extent of the business, trade or occupation of the applicant in connection with which the tractor is to be used, as the Committee may prescribe by regulations.

(3) On receipt of an application under subsection (2), or at any time thereafter, the Committee may require an applicant for a tractor licence to supply such further information as the Committee may consider necessary.

(4) A tractor licence shall be valid until the 31st day of December in the year in which it was granted, or such shorter time as the Committee may specify.

Application to renew a tractor licence.

4. (1) A tractor licence may be renewed by the Committee on an application being made to it.

(2) An applicant for the renewal of a tractor licence shall make an application to the Committee in such form and accompanied by such information, including information about the nature and extent of the business, trade or occupation of the applicant in connection with which the tractor is to be used, as the Committee may prescribe by regulations.

(3) A tractor licence renewed under subsection (1) shall be valid until the 31st day of December in the year following the year in which the application to renew was made, or such shorter time as the Committee may specify.

Tractor licence application fees.

5. The Committee may prescribe by regulations a fee to be paid by the applicant on making an application –

- (a) for a tractor licence under section 3(2), and
- (b) to renew a tractor licence under section 4(1),

and regulations under this section may provide for fees to differ depending on the size and power of the tractor in question.

Tractor tax.

6. (1) The Committee may, by regulations, provide that tax shall be chargeable on the grant or renewal of a tractor licence.

(2) Regulations under subsection (1) may prescribe different sums to be paid in respect of different sizes or power or type of tractor, and may exempt owners of specified categories of tractor from the payment of tax under this Law in respect of them.

Test certificate.

7. (1) An applicant for a tractor licence, or for the renewal of a tractor licence, must produce to the Committee a certificate (a "**test certificate**") given and signed by a person (a "**Vehicle Inspector**") approved in that behalf by the Committee and stating that, after examining the tractor to which the test certificate relates on a date not earlier than two months before the date on which application for the grant or renewal of a tractor licence in respect of that tractor was made, the Vehicle Inspector was of the opinion that the tractor is safe and roadworthy.

(2) A test certificate given by a Vehicle Inspector in respect of any tractor must contain the following particulars -

- (a) the name and address of the owner of the tractor,
- (b) the engine and chassis number of the tractor,
- (c) the date on which the tractor was examined for the purposes of giving the test certificate,
- (d) the dimensions and cubic capacity of the tractor,

and such further particulars as the Committee may, from time to time, require, together with any further information that the Vehicle Inspector considers to be relevant.

(3) For the purposes of this section the expression "**owner**" in relation to a tractor means the person by whom the tractor is kept.

(4) The Committee may prescribe by regulations a fee to be payable to a Vehicle Inspector by the owner of a tractor that is examined by that Vehicle Inspector under this section.

Grant or refusal of tractor licences.

8. (1) Subject to the provisions of section 9, on receipt of an application under section 3(2) or 4(1), the Committee may (as the case may be) -

- (a) grant or renew a tractor licence in the terms applied for,
- (b) grant or renew a tractor licence subject to such conditions as the Committee may think it necessary or desirable, and reasonable, to impose, or
- (c) refuse to grant or renew a tractor licence.

(2) The Committee may revoke or may, from time to time, vary any condition attached to any tractor licence granted in pursuance of subsection (1).

Restrictions on grant and renewal of tractor licences.

9. (1) The Committee must not grant or renew a tractor licence unless -

- (a) it is satisfied that the applicant requires a tractor of the size and power of that which is the subject of the application for use on public roads -
 - (i) in connection with the carrying on of the business, trade or occupation from which his

income is wholly or partly derived, or

- (ii) in connection with the operation of the Public Works Department and Emergency Services, or any public transport service which may, from time to time, be approved by Resolution of Chief Pleas,
- (b) the applicant produces to the Committee a certificate of insurance indicating that on the date when the tractor licence comes into operation there will be in force, in relation to the tractor in question, a policy of insurance complying with the requirements of section 33,
- (c) the applicant has paid the tractor tax due under regulations made under section 6 in respect of the tractor in question (if any), and
- (d) the applicant produces a test certificate given under section 7 in respect of the tractor in question.

(2) The Committee may prescribe by regulations the maximum size and power of tractors that may be licensed under this section, and may make specific provision in those regulations for the licensing of four wheel drive tractors.

Suspension or revocation of tractor licences.

10. The Committee may suspend or revoke a tractor licence upon the breach by the licensee of –

- (a) any conditions attached to that licence, or
- (b) any provision of this Law or any other enactment or subordinate legislation or any rule of law having effect in Sark,

or upon any grounds that appear to the Committee to be material to the proper operation of the licence.

Licences not transferable.

11. (1) A tractor licence granted or renewed in accordance with the provisions of this Law -

- (a) must be granted or renewed, as the case may be, only in respect of the tractor and to the applicant specified in the application for the grant or renewal of the tractor licence, and
- (b) must not be transferred either to another tractor or to a person other than the licensee otherwise than by an endorsement thereon by the Constable with the consent of the Committee.

(2) Subject to the provisions of this Law, nothing in subsection (1) shall prevent a person other than the licensee from driving a tractor with the permission of the licensee.

Registration of tractors.

12. (1) Pursuant to the provisions of this section the Committee must register, and the licensee must mark, a tractor licensed under this Part, in

accordance with the provisions of this section.

(2) On granting a licence in respect of a tractor under this Part, the Committee must designate it a unique name and record that name on the licence and in a register.

(3) Before driving or allowing another person to drive a tractor on a public road, the licensee must mark that name on the tractor on a place, and with numerals of a size and colour, as the Committee may prescribe in regulations.

(4) Regulations under subsection (3) may make it an offence to drive a tractor, or allow a tractor to be driven, on a public road that is not marked in accordance with those regulations, and may provide that a person guilty of such an offence shall be liable to a fine not exceeding level three on the uniform scale.

PART 3

Tractor driving licences

Application for tractor driving licence.

13. (1) Subject to the provisions of this Law, a person may not drive or attempt to drive a tractor on a public road unless he holds a licence granted or renewed under this Part (a "**tractor driving licence**").

(2) An applicant for a tractor driving licence, and an applicant to renew a tractor driving licence under section 15(2), shall make an application to the Constable in such form and accompanied by such information, as the Committee may prescribe by regulations.

(3) On receipt of an application under subsection (2) or section 15(2), or at any time thereafter, the Constable may require the applicant to supply

such further information as he may consider necessary.

Grant or refusal of tractor driving licences.

14. (1) Subject to subsection (2), the Constable must grant a tractor driving licence if the applicant is aged 16 years or more and has passed such tests of driving competency as the Committee may prescribe by regulations, and such tests of eyesight as the Constable may require.

(2) The Constable must not grant a tractor driving licence if he has reasonable grounds for believing that the applicant is not a fit and proper person to drive a tractor.

Duration of validity, and renewal, of tractor driving licences.

15. (1) A tractor driving licence shall be valid until the 31st day of December in the year in which it was granted.

(2) A tractor driving licence may be renewed by the Constable on an application being made to him during the month of December.

(3) A tractor driving licence renewed under subsection (2) shall be valid until the 31st day of December in the year following the year in which the application to renew was made.

Provisional tractor driving licences.

16. (1) For the purpose of enabling a person to learn to drive a tractor with a view to passing a test of driving competency, the Constable may, on an application under this section, grant a licence to drive a tractor on the public roads which shall remain in force for a period of three months from when it was granted (a "**provisional tractor driving licence**").

(2) A provisional tractor driving licence shall be in such form as the Constable may determine, and shall be subject to such conditions as he may deem necessary or desirable, and reasonable.

(3) The Constable may renew a provisional tractor driving licence on an application being made to him in such terms and for such duration as he thinks fit.

Tractor driving licence application fees.

17. The Committee may prescribe by regulations a fee to be paid by the applicant on making an application –

- (a) for a tractor driving licence under subsection 13(2),
- (b) to renew a tractor driving licence under section 15(2),
- (c) for a provisional tractor driving licence under section 16(1), and
- (d) to renew a provisional tractor driving licence under section 16(3).

Suspension and revocation of tractor driving licences.

18. (1) The Constable may suspend or revoke a tractor driving licence, or a provisional tractor driving licence, upon a breach by the licensee of any provision of this Law or any other enactment or subordinate legislation or any rule of law having effect in Sark, or upon any grounds that appear to the Constable to be material to the proper operation of the licence.

(2) The Constable may suspend or revoke a tractor driving

licence, or a provisional tractor driving licence, if advised by the Island Medical Officer that in his opinion the licence should be suspended or revoked on health or medical grounds.

PART 4

Invalid carriage licences and driving licences

Restriction on use of invalid carriages.

19. Subject to the provisions of this Law, no person may drive or attempt to drive an invalid carriage on a public road unless that invalid carriage has been licensed under section 20, and either –

- (a) he holds a licence granted under section 23 or 26, or
- (b) he has been designated by the Committee as an approved tester of invalid carriages, and is driving or attempting to drive an invalid carriage in that capacity.

Application for invalid carriage licence.

20. (1) A person who wants a licence for an invalid carriage ("an **invalid carriage licence**") shall make an application to the Committee in such form and accompanied by such information, as the Committee may prescribe by regulations, including information about the invalid carriage in question.

(2) On receipt of an application under subsection (1), or at any time thereafter, the Committee may require an applicant for an invalid carriage licence to supply such further information as it may consider necessary.

(3) Subject to subsection (4) below, on an application being made to it under this section, the Committee may grant to the applicant an invalid

carriage licence in respect of the invalid carriage concerned in such form, and containing such conditions, as the Committee may prescribe by regulations.

(4) The Committee may not grant an invalid carriage licence unless there is produced to it by the applicant a certificate of insurance indicating that on the date when the invalid carriage licence comes into operation there will be in force in respect of that invalid carriage a policy of insurance that complies with the requirements of section 33.

(5) An invalid carriage licence shall be valid until the 31st day of December in the year in which it was granted.

Application for invalid carriage driving licence.

21. (1) A person who wants a licence to drive an invalid carriage on a public road ("**an invalid carriage driving licence**") shall make an application to the Committee in such form, and accompanied by such information, as the Committee may prescribe by regulations, including information about the invalid carriage in question.

(2) On receipt of an application under subsection (1), or at any time thereafter, the Committee may require an applicant for an invalid carriage driving licence to supply such further information as it may consider necessary.

Applications to renew licences.

22. (1) An invalid carriage licence and an invalid carriage driving licence may be renewed by the Committee on application being made to it during December.

(2) An applicant for the renewal of an invalid carriage licence or an invalid carriage driving licence shall make an application to the Committee in

such form and accompanied by such information as the Committee may prescribe by regulations.

(3) An invalid carriage licence and an invalid carriage driving licence renewed under subsection (1) shall be valid until the 31st day of December in the year following the year in which the application to renew was made.

Grant or refusal of invalid carriage driving licence.

23. (1) Subject to subsection (2), on receipt of an application under section 21(1) for an invalid carriage driving licence, or an application under section 22(2) to renew an invalid carriage driving licence, the Committee may grant or refuse the application.

(2) The Committee must not grant (or renew, as the case may be) an invalid carriage driving licence unless -

- (a) the applicant produces a certificate signed by the Island Medical Officer or other medical practitioner recognised for this purpose by the Committee certifying that –
 - (i) the applicant has been examined by him during the previous 28 days,
 - (ii) the applicant is suffering from a physical defect or disability that makes use of an invalid carriage appropriate, and
 - (iii) in his opinion, the physical defect or disability of the applicant is not such as would prevent

him from exercising complete control over the invalid carriage in question and being able to drive it in a safe manner,

- (b) the Committee is satisfied that it is necessary or desirable in the interest of the applicant or for his well-being that he should be permitted to use an invalid carriage, and
- (c) the applicant passes such test of competency to drive, and of his eyesight, as the Committee may require.

Application fees.

24. The Committee may prescribe by regulations fees to be paid by the applicant on making an application under this Part -

- (a) for the grant of an invalid carriage licence,
- (b) for the grant of an invalid carriage driving licence,
- (c) to renew an invalid carriage licence, and
- (d) to renew an invalid carriage driving licence.

Suspension or revocation of invalid carriage driving licence.

25. (1) The Committee may suspend or revoke an invalid carriage driving licence at any time if it is satisfied that the licensee is unable to drive his invalid carriage safely.

- (2) For the avoidance of doubt, the Committee may suspend or

revoke an invalid carriage driving licence under subsection (1) even if it considers that the only risk posed by the licensee's driving of his invalid carriage is likely to be to himself.

(3) The Constable may suspend or revoke an invalid carriage driving licence if he is satisfied that the licensee poses an immediate danger to himself or others.

Temporary invalid carriage driving licences.

26. (1) The Committee may grant a temporary invalid carriage driving licence to a visitor to Sark, or a resident with a temporary disability, to be known as a "**temporary invalid carriage driving licence**".

(2) A temporary invalid carriage driving licence shall be in such form as the Committee may prescribe by regulations, and may be for any duration not exceeding three months.

(3) Regulations under subsection (2) may prescribe information and documents that shall be required by the Committee before a temporary invalid carriage driving licence is granted, and may prescribe a fee to be paid on an application for such a licence.

PART 5

Licences for construction vehicles

Application for construction vehicle licence.

27. (1) No person may import a construction vehicle into Sark unless a licence under subsection (3) in respect of it has been granted.

(2) Subject to the provisions of this Law, no person may drive or

operate, or attempt to drive or operate, a construction vehicle in Sark unless he is specified as a driver or operator of that construction vehicle in a licence granted or renewed in respect of it under subsection (3) or section 28(3) (as the case may be).

(3) The Committee may, on an application being made to it and subject to the following subsections, grant a licence permitting the import into Sark and use on a public road for a specified period by a specified person or persons of a specified construction vehicle (a "**construction vehicle licence**").

(4) The Committee may grant a construction vehicle licence subject to such conditions as it thinks fit, including (for the avoidance of doubt) requirements as to insurance that exceed the requirements set out in section 33, save that no such licence may permit the use of a vehicle at night or on a Sunday except if the Committee is satisfied that the vehicle will be engaged on emergency public works.

(5) An application for a construction vehicle licence must be in such form and contain such information as the Committee may prescribe by regulations.

(6) The Committee may only grant an application for a construction vehicle licence if it is satisfied that –

- (a) the vehicle is safe and roadworthy,
- (b) its use is essential to construction work on Sark for which all required consents and permissions are in place, or to agricultural work on Sark,
- (c) its use would not damage the public roads,

- (d) no smaller or less powerful vehicle could reasonably be used in place of the vehicle in respect of which the application has been made, and
- (e) the specified drivers and operators of the vehicle in respect of which the application has been made have the necessary competence and experience, as evidenced by the holding of relevant licences or certificates or otherwise, to drive or operate (as the case may be) the vehicle safely.

(7) The Committee may, at its absolute discretion, request that the Vehicle Inspector, or any other more suitable person, inspect a vehicle before its importation into Sark, if it considers that such an inspection is necessary to allow it to be satisfied of any matter set out in subsection (6); and the costs of such an inspection, including the fee, and reasonable travel and accommodation costs (if any) of the inspecting person, shall be borne by the applicant.

(8) The Committee must not make a request under subsection (7) without informing the applicant first of the estimated total cost of an inspection under that subsection of the construction vehicle in question.

(9) The Chairman of the Committee must report the granting of a licence under this section to the next meeting of Chief Pleas.

Duration of validity, and renewal, of construction vehicle licences.

28. (1) A construction vehicle licence must be granted for the shortest necessary period.

(2) The Committee may not grant a construction vehicle licence that expires later than the 31st day of December in the year it was granted.

(3) A construction vehicle licence may be renewed by the Committee on an application being made to it during the month before its expiry.

(4) A construction vehicle licence renewed under subsection (2) must have the shortest necessary period of validity.

Construction vehicle licence application fees.

29. The Committee may prescribe by regulations a fee to be paid by the applicant on making an application -

- (a) for a construction vehicle licence under subsection 27(3), and
- (b) to renew a construction vehicle licence under section 28(3),

and regulations under this section may provide for fees to differ depending on the size and power of the construction vehicle in question, and the period of the licence.

PART 6

Miscellaneous

Tractor import licences.

30. (1) No person may import a tractor into Sark for use on the public roads unless he holds a licence granted under this section (a "**tractor import licence**") in respect of that tractor by the Committee.

(2) An application for a tractor import licence must be made to the Committee, and shall be in such form and shall contain such information as the Committee may prescribe by regulations.

(3) Regulations made under this section may provide for the payment of a fee on the making of an application for a tractor import licence, and for that fee to differ depending on the size and power of the tractor.

Duty to notify Committee in advance of importation of other motor vehicles.

31. No person may import into Sark -

- (a) a tractor for use other than on the public roads, or
- (b) any other motor vehicle, other than a construction vehicle (in relation to which the provisions of Part 5 apply),

unless he has notified the Committee beforehand of the date of the importation, the nature of the vehicle, and any other information that the Committee may prescribe by regulations; and such regulations may specify the period in which a notification under this section must be made.

Examination of motor vehicles and trailers by the Constable.

32. (1) The Constable may at any time on any public road, and with or without technical assistance, examine any motor vehicle or trailer to ascertain whether in his opinion it is safe and roadworthy.

(2) Where after any examination of a motor vehicle under subsection (1) the Constable is satisfied that it is not safe and roadworthy and that

its continued use would pose an immediate danger to the driver or to the public, he may immediately suspend the tractor licence or construction vehicle licence in respect thereof (or, in the case of an invalid carriage, the invalid carriage driving licence of the driver).

(3) The suspension of a licence under subsection (2) shall lapse after 14 days (or such shorter time as the Constable may direct) unless the Court of the Seneschal orders within that time, on the application of the Constable, that the suspension continue until either such time as the Court is satisfied, on the application of the licence holder, that the vehicle in question is safe and roadworthy, or such other time as the court may specify.

(4) Where after any examination of a trailer under subsection (1) the Constable is satisfied that it is not safe and roadworthy and that as a consequence its continued use would pose an immediate danger to the driver or to the public, the Constable may direct the owner or operator thereof not to use it or allow it to be used on a public road.

(5) A direction under subsection (4) shall continue in force until either the Constable withdraws it, on his being satisfied that the trailer's use no longer poses a danger to the driver or the public, or the Court of the Seneschal orders, on the application of the trailer's owner, that the direction is no longer in force, on the ground that the Court is satisfied as to the same.

Insurance of motor vehicles.

33. (1) Subject to the provisions of this section, no person may drive or attempt to drive, or cause or permit any other person to drive or attempt to drive, a motor vehicle on a public road unless there is in force in relation to the user of that motor vehicle by that person or that other person, as the case may be, such a policy of insurance in respect of third-party risks as complies with the

requirements of this section.

(2) In order to comply with the requirements of this section, a policy of insurance is a policy which -

- (a) is issued by a person who is an authorised insurer within the meaning of the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law, 1936 ("**the Law of 1936**")^a,
- (b) insures such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death or bodily injury to any person caused by or arising out of the use of the motor vehicle on a public road:

Provided that such a policy shall not be required to cover—

- (i) liability in respect of the death arising out of and in the course of his employment of a person in the employ of a person insured by

^a Ordres en Conseil, Vol. X, p. 388; as amended by Vol. XII, p. 380; Vol. XVIII, p. 35; Vol. XVIII, p. 257; Vol. XX, p. 246; Vol. XXII, p. 560; Vol. XXIII, p. 188; Vol. XXIII, p. 227; Vol. XXIV, p. 250; Vol. XXVII, p. 76; Vol. XXVII, p. 415; Vol. XXVIII, p. 303; Vol. XXIX, p. 214; Vol. XXX, p. 243; Vol. XXXI, p. 278; Vol. XXXI, p. 423; Vol. XXXIII, p. 49; Vol. XXXIII, p. 127; Vol XLII(1), p. 766; No. XIX of 2007; No. II of 2009; Recueil d'Ordonnances

the policy or of bodily injury sustained by such person arising out of and in the course of his employment, or

(ii) any contractual liability.

(3) A policy of insurance shall be of no effect for the purposes of this section unless and until there is delivered by the insurer to the person by whom the policy is effected a certificate in the form prescribed under the Law of 1936, and containing such particulars of any conditions subject to which the policy is issued and such other particulars as may be so prescribed.

(4) Subsections (2)(a) and (3) shall not apply in any case where the motor vehicle in question is an invalid carriage.

(5) For the purposes of this section "**motor vehicle**" includes a motor vehicle to which there is attached a trailer or other vehicle.

Appeals and references.

34. (1) Subject to the provisions of this section, any person aggrieved by a decision of the Committee or the Constable to refuse to grant or renew, or to suspend or revoke a licence under this Law, or by a decision of the Committee to attach any condition to a licence, or to request a person to inspect a construction vehicle before its importation into Sark under section 27(7), may appeal to a tribunal ("**the tribunal**") which shall be constituted in such manner as Chief Pleas shall by Ordinance direct and of which the members shall, from time to time, be appointed by Chief Pleas by Resolution, either generally or in respect of a

Tome XXVI, p. 90; Tome XXIX, p. 406. This Law is modified by Recueil d'Ordonnances Tome XIX, p. 318. There are amendments not relevant to this Law.

particular appeal.

(2) A person may appeal to the tribunal under subsection (1) on the grounds that the decision of the Committee or the Constable was ultra vires or was an unreasonable exercise of its or his powers (as the case may be), and any such appeal must be instituted before the expiration of a period of six months commencing on the day on which notice of such decision was conveyed to that person.

(3) An appeal under the provisions of subsection (1) of this section must be instituted by way of a summons served on the Chairman of the Committee or the Constable (as the case may be) to show cause why the decision appealed from should not be set aside or varied.

(4) On any appeal under the provisions of subsection (1) of this section the burden of satisfying the tribunal that the decision of the Committee or Constable which is the subject of the appeal is intra vires or a reasonable exercise of its or his powers shall be borne by the Committee or the Constable, as the case may be, and the appellant shall be entitled to a final right of reply.

(5) The tribunal may refer to the Court of the Seneschal any question arising in connection with the determination of an appeal by the tribunal under the provisions of this section and certified as a question of law by Her Majesty's Procureur.

(6) Any person aggrieved by a decision of the tribunal on any question of law may appeal from that decision to the Court of the Seneschal in such manner and within such period as shall be directed by the Court of the Seneschal.

(7) A decision of the Committee or of the tribunal, as the case

may be, on any question in respect of which there has been no appeal under the provisions of this section, shall be final and conclusive.

(8) The provisions of this section shall not apply in respect of a licence suspended by the Constable under section 32(2).

Exclusion of liability.

35. (1) Subject to subsection (2), no person is to be –

- (a) liable in damages, or
- (b) where an individual, personally liable in any civil proceedings,

in respect of anything done or omitted to be done after the commencement of this Law in the discharge or purported discharge of his functions, or functions delegated to him, under this Law, unless the thing was done or omitted to be done in bad faith.

(2) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000^b.

PART 7

^b Ordres en Conseil Vol. XL, p. 396; as amended by Order in Council No. I of 2005; Recueil d'Ordonnances Tome XXVIII, p. 493; Recueil d'Ordonnances Tome XXIX, p. 406; GSI No. 27 of 2006; and Recueil d'Ordonnances Tome XXXIII, p. 617.

Offences

Import offences.

36. (1) It is an offence for a person, contrary to section 27(1), to import into Sark a construction vehicle, unless a construction vehicle licence has been granted in respect of it.

(2) It is an offence for a person, contrary to section 30(1), to import into a Sark a tractor for use on the public roads, unless he holds a tractor import licence in respect of it.

(3) It is an offence for a person, contrary to section 31, to import into Sark a motor vehicle other than a tractor for use on the public roads without having provided the Committee beforehand with the information set out in section 31, and in any regulations made under that section, in accordance with those regulations.

Other offences.

37. (1) It is an offence for a person (other than a Vehicle Inspector, or a person designated by the Committee as an approved tester of invalid carriages, acting in the course of his duties) –

- (a) contrary to section 1(1), to drive, or attempt to drive, on a public road a motor vehicle other than a tractor, invalid carriage, construction vehicle, or combine harvester,
- (b) contrary to section 3(1), to drive, or attempt to drive, on a public road a tractor in respect of the use of

which the Committee has not granted a tractor licence,

- (c) contrary to section 13(1), to drive, or attempt to drive, on a public road a tractor if he does not hold a tractor driving licence,
- (d) contrary to section 19, to drive, or attempt to drive, on a public road an invalid carriage if that invalid carriage has not been licensed under section 20,
- (e) contrary to section 19, to drive, or attempt to drive, on a public road an invalid carriage if he does not hold an licence granted under section 23 or section 26,
- (f) contrary to section 27(2), to drive or operate, or attempt to drive or operate, on a public road a construction vehicle if he is not a person specified in a construction vehicle licence granted or renewed in respect of that construction vehicle as an authorised driver or operator (as the case may be) of that vehicle, or (for the avoidance of doubt), if no construction vehicle licence has been granted in respect of it,
- (g) to drive, or attempt to drive, on a public road a tractor otherwise than in accordance with the conditions imposed in the tractor licence pertaining to that tractor, other than where that person is using that tractor for the purposes of facilitating urgent medical assistance or for the purposes of any emergency service,

- (h) to drive or operate, or attempt to drive or operate, on a public road a construction vehicle otherwise than in accordance with the conditions imposed in the construction vehicle licence pertaining to that construction vehicle under section 27(4),
- (i) to use, attempt to use or allow to be used on a public road a motor vehicle in respect of which a suspension of the tractor licence, construction vehicle licence, or the driver's invalid carriage driving licence (as the case may be) is in force under section 32(2),
- (j) to use, attempt to use or allow to be used on a public road a trailer in respect of which a direction issued under section 32(4) is in force, and
- (k) contrary to section 33(1), to drive or attempt to drive, or cause or permit any other person to drive or attempt to drive, on a public road a motor vehicle without there being in place in respect of it a policy of insurance in respect of third-party risks that complies with the requirements of that section, and, in the case of a construction vehicle, with any further requirements included in the construction vehicle licence granted in respect of it.

Penalties.

38. (1) Subject to subsections (2) and (3), a person guilty of an offence under section 36 or 37 shall be liable to imprisonment for a term not exceeding 14 days, or to a fine not exceeding level 4 on the uniform scale, or to

both.

(2) A person guilty of an offence under section 37(1)(d), 37(1)(e), or, where the offence relates to the suspension of the person's invalid carriage driving licence, 37(1)(i), shall be liable to a fine not exceeding level 3 on the uniform scale.

(3) In addition to or in substitution for the above penalties, the Court may make an order disqualifying a person guilty of an offence under section 37(1)(k) from holding or obtaining a tractor driving licence or a construction vehicle licence (as the case may be, depending on the type of motor vehicle in relation to which the offence was committed) for such period not exceeding 12 months as the Court thinks fit.

PART 8

Final provisions

Amendment of the 1978 Law.

39. (1) The Financial Provisions (Sark) Law, 1978^c is further amended as follows.

(2) In section 25(3), after "the Fifth Schedule to this Law", insert "in respect of that cycle".

(3) For section 28, substitute –

^c Ordres en Conseil Vol. XXVI, p. 480; Vol. XXXIII, p. 168; Vol. XLI, p.782; Order in Council No.III of 2007; Financial Provisions (Amendment) (Sark) Ordinance, 1995 (No. 105); Financial Provisions (Amendment) (Sark) Ordinance,

"Variation of cycle tax.

28. (1) Subject to subsection (2), Chief Pleas may from time to time by Ordinance amend the Fifth Schedule to this Law so as to specify separate rates of tax for bicycles and tricycles, and to vary the rate or rates of tax set out therein.

(2) An Ordinance made under subsection (1) may not increase any rate to a rate exceeding £30 per annum."

(4) For the Fifth Schedule, substitute –

"

FIFTH SCHEDULE

Section 25

Rates of cycle tax

Bicycles and tricycles: £11 per annum".

Power to make Ordinances.

40. (1) Chief Pleas may by Ordinance amend any provisions of this Law or of the Road Traffic Offences (Motor Vehicles and Bicycles) (Sark) Law, 2013 ("the Offences Law") to provide for -

- (a) the use of electric bicycles on public roads, and for the regulation of that use including, but not limited to, the introduction of systems of licensing and

1996 (No. 109); Financial Provisions (Amendment) (Sark) Ordinance, 2002 (No. 121); Financial Provisions (Amendment) (Sark) Ordinance, 2006 (No. 153).

registration, the payment of fees in relation to the same, and the prohibition of the use on public roads of electric bicycles which exceed specified limits of power, weight and speed, and

- (b) the regulation of the use of four-wheeled pedalled vehicles on public roads including, but not limited to, the introduction of systems of licensing and registration, and the payment of fees in relation to the same.

(2) Chief Pleas may by Ordinance transfer any of the functions, powers or duties of the Committee under this Law and the Offences Law, other than a power or duty to make regulations, to such a person or body as may be specified in the Ordinance; and a body may be established by the Ordinance for that purpose.

(3) A person or body to which functions, powers or duties have been transferred under an Ordinance made under subsection (2) shall be subject to the duties set out in section 2.

(4) Chief Pleas may by Ordinance amend any of the provisions relating to weight, speed and power in the definitions of "invalid carriage", "powered wheelchair" and "tractor" at section 42(1).

General provisions as to subordinate legislation.

41. (1) Any Ordinance or regulation made under this Law -

- (a) may, in the case of an Ordinance, and for the avoidance of doubt -

(i) provide for the creation, trial and punishment of offences, and

(ii) repeal, replace, amend, extend, adapt, modify or disapply any rule of customary law,

(b) may be amended or repealed by a subsequent Ordinance, order, regulation, rule or guidance, as the case may be, hereunder, and

(c) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient including, in the case of an Ordinance, provisions repealing, amending or modifying any enactment.

(2) Any power conferred by this Law to make any Ordinance or regulation 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.

(3) The power conferred by subsection (1)(a)(i) to create offences and specify penalties does not include power -

- (a) to provide for offences to be triable on indictment,
- (b) to authorise the imposition of a term of imprisonment exceeding 14 days, or of a fine exceeding level 5 on the uniform scale.

(4) Regulations under this Law shall be laid before a meeting of Chief Pleas as soon as possible after being made; and, if at that or the next meeting Chief Pleas resolve that the regulations be annulled, then they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Savings and transitional arrangements.

42. (1) Anything done or having effect as if done (including the making of Ordinances and regulations) under or for the purposes of any provision repealed or revoked by this Law has effect as if done under or for the purposes of any corresponding provision of this Law.

(2) Where a person commits an offence under a provision repealed by this Law –

- (a) before the commencement of this Law, or
- (b) partly before and partly after the commencement of this Law,

he shall be charged and proceeded against under that provision as if it had not been repealed.

(3) Without prejudice to the generality of subsection (1) –

- (a) a tractor licence granted under section 3 of the Tractors (Sark) Law, 1974^d, and valid immediately before the coming into force of this Law, shall be deemed to have effect as if it were a tractor licence granted under this Law,
- (b) a tractor driving licence granted under section 2 of the Road Traffic (Tractors and Invalid Carriages) (Sark) Ordinance, 1967, and valid immediately before the coming into force of this Law, shall be deemed to have effect as if it were a tractor driving licence granted under this Law,

^d Ordres en Conseil Vol. XXIV, p. 344; Ordres en Conseil Vol. XXVIII, p. 324; Ordres en Conseil Vol. XXVIII, p. 341; Ordres en Conseil Vol. XXXI, p. 13; No. V of 2007.

- (c) an invalid carriage licence granted under section 1 of the Invalid Carriages (Sark) Law, 1967^e, and valid immediately before the coming into force of this Law, shall be deemed to have effect as if it were an invalid carriage licence granted under this Law,
- (d) an invalid carriage driving licence granted under section 3 of the Road Traffic (Tractors and Invalid Carriages) (Sark) Ordinance, 1967, and valid immediately before the coming into force of this Law, shall be deemed to have effect as if it were an invalid carriage driving licence granted under this Law, and
- (e) a tractor driving licence granted to a person in respect of a construction vehicle under section 2 of the Road Traffic (Tractors and Invalid Carriages) (Sark) Ordinance, 1967, and valid immediately before the coming into force of this Law, shall be deemed to have effect as if it were a construction vehicle licence granted under section 27 of this Law that specifies that person as a driver or operator (as the case may be) of the construction vehicle in question.

(4) Without prejudice to the generality of subsection (1), Chief Pleas may by Ordinance make such further provision as Chief Pleas thinks fit for effecting the transition from any provision made by or by virtue of any Laws or

Ordinances repealed by this Law to any provision made by or by virtue of this Law.

Variation and repeal of Resolutions.

43. Any power conferred by this Law to pass any Resolution shall be construed as including a power exercisable in the like manner to vary or repeal the Resolution.

Interpretation.

44. (1) In this Law, unless the context requires otherwise -

"**combine harvester**" means a motor vehicle used for the harvesting of crops,

"**the Committee**" means the Sark Chief Pleas Road Traffic Committee,

"**the Constable**" includes the Vingtenier and the Assistant Constables,

"**construction vehicle**" means a motor vehicle designed for use for construction, road laying, and demolition, and includes a mobile crane and any self-propelled construction equipment, and "**construction**" shall be construed accordingly,

^e Ordres en Conseil Vol. XXI, p. 196; as amended by Vol. XXXI, p. 320); No. IV of 2007.

"electric bicycle" means a bicycle or tricycle that has operative pedals for propulsion by pedalling, and a battery-powered electric motor that can run only when the cycle is being pedalled,

"enactment" means any Law, Ordinance or subordinate legislation,

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

"invalid carriage" means -

- (a) an electrically propelled vehicle (other than a powered wheelchair) the weight of which unladen and excluding the weight of the traction batteries does not exceed 254 kilograms, which is specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability and is used solely by such a person, and which is so constructed or adapted as to be incapable of exceeding a speed of 8 miles per hour on the level under its own power, or
- (b) a bicycle or tricycle which –
 - (i) has a kerbside weight not exceeding –
 - (aa) in the case of a bicycle, 40 kilograms, and
 - (bb) in the case of a tricycle, 60 kilograms,

- (ii) is fitted with pedals by means of which it is capable of being propelled, and
- (iii) is fitted with no motor other than an electric motor which –
 - (aa) has a continuous rated output which, when installed in the vehicle with the nominal voltage supplied, does not exceed 250 watts,
 - (bb) cannot propel the cycle when it is travelling at more than 15 miles per hour, and
 - (cc) cannot propel the cycle when the cyclist is not pedalling; save where the cycle was licensed for use on the Island on or before 10th April 2013, in which case this subparagraph (cc) shall not apply,

"Island Medical Officer" means the person appointed as such by Chief Pleas,

"motor vehicle" means a mechanically or electrically propelled vehicle other than a powered wheelchair,

"policy of insurance" includes a cover note,

"**powered wheelchair**" means a mechanically or electrically propelled wheelchair which is so constructed or adapted as to be incapable of exceeding a speed of 4 miles per hour on the level under its own power,

"**public road**" means any road, street, lane, way or place which is public or to which the public has right of access,

"**public works**" includes the repair and maintenance of the Island's telecommunications, electricity, and water and sewerage infrastructure,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect,

"**tractor**" means a mechanically propelled vehicle -

- (a) which is not constructed itself to carry a load, other than the following articles, that is to say, water, fuel, accumulators and other equipment for the purpose of propulsion, a link box, loose tools and loose equipment; and
- (b) which is not adapted itself to carry a load, in addition to the said articles, in excess of one half ton weight,

and the weight of which unladen does not exceed seven tons and a quarter, or such other weight as Chief Pleas may prescribe by Resolution, and

"uniform scale" means the scale of fines for offences set out in the Uniform Scale of Fines (Sark) Law, 1989^f.

(2) Except in so far as the context otherwise requires, any references in this Law to any other enactment shall be construed as references to that enactment as amended, repealed and re-enacted, extended or applied by or under any other enactment including this Law.

(3) The Interpretation (Guernsey) Law, 1948^g shall apply to the interpretation of this Law as it applies to the interpretation of an enactment in force in Guernsey.

Repeals.

45. The enactments set out in the Schedule are hereby repealed.

Citation.

46. This Law may be cited as the Motor Vehicles (Sark) Law, 2013.

Commencement.

47. This Law shall come into operation on such date as Chief Pleas may by Ordinance appoint, and such an Ordinance may appoint different days for different provisions and different purposes; and in particular, different days may be appointed for the taking effect of the repeal of particular enactments, or parts of such enactments to be specified, set out in the Schedule.

^f Ordres en Conseil Vol. XXXI, p. 320.

^g Ordres en Conseil Vol. XIII, p. 355.

S. M. SIMMONDS,
Her Majesty's Deputy Greffier.

SCHEDULE

REPEALS

Motor Traffic (Sark) Ordinance, 1948

Road Traffic (Tractors and Invalid Carriages) (Sark) Ordinance, 1967

Road Traffic (Tractors and Invalid Carriages) (Amendment) (Sark) Ordinance, 1970
(No.32)

Road Traffic (Tractors and Invalid Carriages) (Amendment) (Sark) Ordinance, 1972
(No.37)

Road Traffic (Tractors and Invalid Carriages) (Amendment) (Sark) Ordinance, 1974
(No.41)

Road Traffic (Tractors and Invalid Carriages) (Amendment) (Sark) Ordinance, 1980
(No.61)

Road Traffic (Tractors and Invalid Carriages) (Amendment) (Sark) Ordinance, 1983
(No.68)

Road Traffic (Tractors and Invalid Carriages) (Amendment) (Sark) Ordinance, 1988
(No.82A)

Road Traffic (Tractors and Invalid Carriages) (Amendment) (Sark) Ordinance, 2002

Road Traffic (Tractors and Invalid Carriages) (Amendment) (Sark) Ordinance, 2008
(No.162)

Road Traffic (Tractors and Invalid Carriages) (Amendment) (Sark) Ordinance 2010
(No.181)

Road Traffic (Tractors and Invalid Carriages) (Amendment) (Sark) (No.2)
Ordinance, 2010 (No. 187)

Invalid Carriages (Sark) Law, 1967^h

Invalid Carriages (Sark) (Amendment) Law, 2006ⁱ

Tractors (Sark) Law, 1974^j

Tractors (Amendment) (Sark) Law, 1983^k

Tractors (Amendment) (No. 2) (Sark) Law, 1983^l

Tractors (Amendment) (Sark) Law, 1988^m

^h Ordres en Conseil Vol. XXI, p. 196.

ⁱ No. IV of 2007.

^j Ordres en Conseil Vol. XXIV, p. 344.

^k Ordres en Conseil Vol. XXVIII, p. 324.

^l Ordres en Conseil Vol. XXVIII, p. 341.

^m Ordres en Conseil Vol. XXXI, p. 13.

The Tractors (Amendment) (Sark) Law, 2006ⁿ

Tractors (Constitution of Tribunal) (Sark) Ordinance, 1974 (No.42)

ⁿ No. V of 2007.

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