

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Tractors (Sark) Law, 1974

(Registered on the Records of the Island of Guernsey
on the 30th day of September, 1974.)



1974.

XII
1974

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 30th day of September, 1974, before John Henry Loveridge, Esquire, C.B.E., Bailiff; present:—Bertram Guy Blampied, Esquire, O.B.E., Stanley Walter Gavey, Esquire, Gilbert Carey de Jersey, Esquire, C.B., D'Arcy George Le Tissier, Esquire, Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley, Walter Francis Robin, Richard Alan Kinnersly, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Brook Sutcliffe and Richard Oliver Symons, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 25th day of July, 1974, ratifying a *Projet de Loi* of the Chief Pleas of the Island of Sark entitled "The Tractors (Sark) Law, 1974", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island and 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 Seneschal of Sark for registration on the records of that Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 25th day of July 1974

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 16th day of July 1974, 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 the humble Petition of the late Sibyl Mary Hathaway, D.B.E., Dame de Sercq, Bernard Grace Jones, Esquire, Seneschal, and John Peter Guille, Esquire, Prévôt, of the Island of Sark, setting forth:—

‘1. That in pursuance of their Resolution of the 4th day of October 1972, the Chief Pleas of the Island of Sark, at a Meeting held on the 17th day of April 1974, approved a Bill or “Projet de Loi” entitled “The Tractors (Sark) Law, 1974”. 2. That the said Bill or “Projet de Loi” is in the words and figures 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 Bill or “Projet de Loi” of the Chief Pleas of Sark entitled “The Tractors (Sark) Law, 1974” and to order that the same shall have force of law in the Island of Sark.’

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi 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, as it is hereby ordered, that the same shall have the force of Law within the Island of Sark.

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 Bailiwick of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Bailiwick, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. E. Leigh.

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Tractors (Sark) Law, 1974

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the fourth day of October, nineteen hundred and seventy-two, and of the sixteenth day of January, nineteen hundred and seventy-four, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in this Island.

1. A person shall not drive or attempt to drive a tractor on or along any public road in this Island unless that tractor is for the time being licensed under and in accordance with the provisions of this Law.

Tractors
to be
licensed.

2.—(1) Any person desirous of obtaining a licence under the provisions of this Law for a tractor (hereinafter referred to as "a tractor licence") shall make application in that behalf to the Committee and such application shall be 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, from time to time, require.

Application
for a
tractor
licence.

(2) Upon receipt of an application under the provisions of the last preceding subsection, or at any time thereafter, the Committee may require an

applicant for a tractor licence to supply such further 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 consider necessary.

Grant or
refusal of
tractor
licences.

3.—(1) Subject to the provisions of section five of this Law, upon the receipt of an application under the provisions of the last preceding section, the Committee may either:—

- (a) grant to the applicant (hereinafter referred to as "the licensee") the tractor licence applied for;
- (b) grant to the licensee such tractor licence subject to—
 - (i) a condition that, without the permission of the Constable, a person shall not drive the tractor in respect of which the tractor licence is granted on or along any of the public roads in this Island as may be specified in the licence,
 - (ii) a condition that, without the permission of the Constable, a person shall not drive the tractor in respect of which the tractor licence is granted on or along any of the public roads in this Island otherwise than on such day or during such hours on any day as may be specified in the licence,
 - (iii) such other conditions whatsoever as the Committee may think it necessary or desirable to impose;
- (c) refuse to grant the tractor licence applied for.

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

4.—(1) A tractor licence granted under the provisions of subsection (1) of the last preceding section shall be valid until the thirty-first day of December next following the date of such grant and thereafter, upon being renewed in pursuance of the provisions of the next succeeding subsection, shall be valid during the period commencing on the first day of January in any year and ending on the thirty-first day of December next following, both dates inclusive.

Duration
of validity
of tractor
licences.

(2) Subject to the provisions of section five of this Law, a tractor licence may be renewed for any year by the Committee upon an application being made to it on or before the thirty-first day of December of the year next preceding.

5. The Committee shall not grant or renew a tractor licence:—

Restrictions
on grant
and renewal
of tractor
licences.

(a) unless it is satisfied that the applicant therefor requires a tractor of the size and power as that which is the subject of the application for use on the 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 any public transport service which may, from time to time, be approved by Resolution of the Chief Pleas;

- (b) unless there is produced to the Committee by the applicant therefor a certificate of insurance indicating that on the date when the tractor licence comes into operation there will be in force a policy of insurance complying with the requirements of section eleven of this Law in relation to the user of the tractor by the applicant or by other persons to be covered by the said policy in respect of the use by them of that tractor;
- (c) in respect of a tractor of such size and power as may, from time to time, be prescribed as being a tractor which shall not be licensed under the provisions of this Law.

Specified tractor and applicant and licences not transferable.

6. A tractor licence granted or renewed in accordance with the provisions of this Law:—

- (a) shall 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;
- (b) shall 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.

Tractor licences of no effect till issued.

7. A tractor licence granted or renewed under the provisions of section three or section four of this Law, as the case may be, shall be of no effect until issued by the Constable in accordance with the provisions of the next succeeding section.

8. Upon the Committee granting or renewing a tractor licence under the provisions of section three or section four of this Law, as the case may be, or as soon as may be thereafter, the Constable shall, upon the appropriate tax chargeable under the provisions of section ten of this Law being paid to him and subject to the provisions of the next succeeding section, issue to the licensee the tractor licence which shall be in such form as the Committee may, from time to time, determine.

Constable
to issue
tractor
licences
on payment
of tax.

9.—(1) The Constable shall not issue a tractor licence in pursuance of the provisions of the last preceding section unless there is produced to him a certificate (hereinafter referred to as a "test certificate") given and signed by a person (hereinafter referred to as 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 is of the opinion that the tractor is roadworthy.

Test certificate.

(2) In examining a tractor for the purposes of giving a test certificate in respect of that tractor a Vehicle Inspector shall have particular regard to:—

- (a) the efficiency and safety of the steering mechanism thereof;
- (b) the efficiency of all the brakes fitted thereto;
- (c) the condition of any tyres fitted to the wheels thereof; and
- (d) the efficiency and safety of any coupling fitted thereto for the purpose of drawing a trailer.

(3) A test certificate given by a Vehicle Inspector in respect of any tractor shall 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;

and such further particulars as the Committee may, from time to time, require.

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

Amount
of tractor
licence
tax.

10.—(1) Subject to the provisions of this Law:—

- (a) there shall be chargeable in respect of the grant or renewal of a tractor licence under the provisions of section three or section four of this Law, as the case may be, the tax specified in subsection (2) or subsection (3) of this section, as the case may be;
- (b) the tax so chargeable shall be paid to the Constable upon the issue of the tractor licence by him in accordance with the provisions of section eight of this Law.

(2) Subject to the provisions of the two next succeeding subsections, the tax chargeable in respect of the grant or renewal of a tractor licence shall be such amount not exceeding ten pounds as may, from time to time, be prescribed.

(3) In the case where an application for the grant of a tractor licence is made on or after the

first day of July in any year the tax chargeable in respect of such licence shall be such amount not exceeding five pounds as may, from time to time, be prescribed.

(4) The tax specified in either of the two last preceding subsections shall not be chargeable in respect of the grant or renewal of a tractor licence if the tractor to which the licence relates does not exceed such size or power as may, from time to time, be prescribed.

11.—(1) Subject to the provisions of this section, Insurance
of tractors. it shall not be lawful for any person to drive or attempt to drive, or to cause or permit any other person to drive or attempt to drive, a tractor on or along any public road in this Island unless there is in force in relation to the user of that tractor 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 shall be 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 (hereinafter referred to as "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

(a) Ordres en Conseil Vol. X, p. 381.

caused by or arising out of the use of the tractor 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 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) For the purposes of this section the expression "tractor" shall include a tractor to which there is attached a trailer or other vehicle.

Restriction
on impor-
tation of
tractors.

12. Except with the permission of the Committee for such purpose and for such period as the Committee shall determine, a person shall not import a tractor into this Island unless at the time of such importation there is in force in relation to the tractor a preliminary declaration in pursuance of the provisions of the next succeeding section.

Preliminary
declara-
tions.

13.—(1) Any person who is desirous of obtaining a tractor licence under the provisions of this Law in respect of a tractor which he wishes to import into this Island may, for the purposes of the last

preceding subsection, apply to the Committee for a preliminary declaration as to whether, in principle, the Committee, on the submission to it of an application in accordance with the provisions of section two of this Law, would be likely to grant a tractor licence in respect of that tractor.

(2) A preliminary declaration issued in pursuance of the provisions of the last preceding subsection shall remain valid for one year from the date on which it was issued.

14.—(1) Subject to the provisions of this section, any person aggrieved by a decision of the Committee to refuse to grant or to renew a tractor licence or to attach any condition thereto under any of the provisions of this Law may appeal therefrom to a tribunal (hereinafter referred to as "the tribunal") which shall be constituted in such manner as the Chief Pleas may, from time to time, by Ordinance direct and of which the members shall, from time to time, be appointed by the Chief Pleas by Resolution either generally or in respect of a particular appeal. Appeals and references.

(2) A person may appeal to the tribunal under the provisions of the last preceding subsection on the grounds that the decision of the Committee was ultra vires or was an unreasonable exercise of its powers and any such appeal shall 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 shall be instituted by way of a summons served on the Chairman of the Committee 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 which is the subject of the appeal is *intra vires* or reasonable shall be discharged by the Committee and the appellant shall be entitled to a final right of reply.

(5) The tribunal may, in such manner as shall be directed by Order of the Royal Court, refer to the Royal Court sitting as a Full Court (hereinafter referred to as "the Royal Court") for decision 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 Royal Court in such manner and within such period as shall be directed by Order of the Royal Court.

(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.

No compensation payable by Chief Pleas.

15. In the event of the Committee refusing to grant or renew a tractor licence under the provisions of this Law no compensation shall be payable by the Chief Pleas for any loss suffered by the applicant for such grant or renewal by reason of such refusal.

Savings.

16.—(1) Any licence granted under the provisions of the Motor Vehicles (Sark) Law, 1956 (hereinafter referred to as "the Law of 1956") (b) for a tractor

(b) Ordres en Conseil Vol. XVII, p. 128.

and valid immediately before the coming into force of this Law shall, if, within one month of the date of the coming into force of this Law, the owner thereof satisfies the Committee that he has owned that tractor for a period of at least five years or has owned that tractor and one or more other tractors in respect of which licences were so granted for successive periods amounting in the aggregate to at least five years, be deemed to have effect as though it were a tractor licence granted under the provisions of this Law and any conditions attached thereto were conditions attached to a tractor licence granted under the provisions of this Law.

(2) Any licence granted under the provisions of the Law of 1956 and having effect by virtue of the provisions of the last preceding subsection may be renewed for any year in accordance with the provisions of subsection (2) of section four of this Law save that in any such case the Committee shall not be required to be satisfied in accordance with the provisions of paragraph (a) of section five of this Law.

17. A person when driving or attempting to drive, or when in charge of, a tractor on any public road in this Island shall not be under the influence of drink or of a drug to such an extent as to be incapable of having proper control of the tractor.

Driving
under the
influence
of drink,
etc.

18. A person who:—

Offences.

(a) contravenes any of the provisions of this Law; or

(b) in making an application for the grant or renewal of a tractor licence or a preliminary declaration in accordance with the provisions of this Law knowingly makes any

false statement or furnishes any false information or recklessly makes any statement or furnishes any information which is false in a material particular; or

- (c) fails to comply with any conditions attached to the grant of a tractor licence;

shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding six months or to both such fine and such term of imprisonment and in addition to or in substitution for any such punishment may be disqualified from holding or obtaining a tractor licence under the provisions of this Law or from holding or obtaining a tractor licence for such period as the Court may think fit.

Repeals.

19. The Laws set out in the Schedule to this Law are hereby repealed.

Interpretation

20.—(1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the Committee” means the Sark Chief Pleas Road Traffic Committee;

“the Constable” includes the Vingtenier;

“Her Majesty’s Procureur” includes Her Majesty’s Comptroller;

“policy of insurance” includes a cover note;

“prescribed” means prescribed by Resolution of the Chief Pleas;

“public road” means any road, street, lane, way or place which is public or to which the public has right of access;

“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, 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.

(2) Except 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(c) shall apply to the interpretation of this Law as if the same were an enactment in force in the Island of Guernsey.

21. This Law may be cited as the Tractors (Sark) Citation. Law, 1974.

22. This Law shall come into operation on such date as the Chief Pleas may by Ordinance appoint. Commence-
ment.

SCHEDULE Section nineteen

Laws repealed

The Motor Vehicles (Sark) Law, 1956(d).

The Motor Vehicles (Amendment) (Sark) Law,
1960(e).

R. H. VIDELO,

Her Majesty's Greffier.

(d) Ordres en Conseil Vol. XVII, p. 128.

(e) Ordres en Conseil Vol. XVIII, p. 241.