

ORDER IN COUNCIL

**XVII
2011**

ratifying a Projet de Loi

ENTITLED

The Alderney and Sark (Licensing of Vessels) (Amendment) (Sark) Law, 2010

(Registered on the Records of the Island of Guernsey
on the 5th December, 2011.)



2011

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

5th day of December, 2011 before Sir Geoffrey Rowland, Bailiff; present:- Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, Esquires, Susan Mowbray, David Osmond Le Conte, John Ferguson, Esquires, Claire Helen Le Pelley, Peter Sean Trueman Girard, Terry George Snell, Niall David McCathie, Terry John Ferbrache, David Allan Grut, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated 12th October, 2011 approving and ratifying a *Projet de Loi* entitled “The Alderney and Sark (Licensing of Vessels) (Amendment) (Sark) Law, 2010”, 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 SÉNÉSCHAL of Sark for registration on the records of that Island.



At the Court at Buckingham Palace

THE 12th DAY OF OCTOBER 2011

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 17th January 2008 and 14th April 2010, the Chief Pleas of the Island of Sark at a meeting on 14th April 2010 approved a *Projet de Loi* entitled the Alderney and Sark (Licensing of Vessels) (Amendment) (Sark) Law, 2010. 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 Alderney and Sark (Licensing of Vessels) (Amendment) (Sark) Law, 2010, 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.

Judith Simpson

PROJET DE LOI

ENTITLED

The Alderney and Sark (Licensing of Vessels) (Amendment) (Sark) Law, 2010

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the 17th January, 2008 and 14th April, 2010, 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.

Amendments to 1951 Law.

1. The Alderney and Sark (Licensing of Vessels) Law, 1951^a is amended as follows, in its application to Sark -

- (a) immediately after section 1, insert the following section -

"Purpose and objectives of this Law.

1A. (1) The purpose of this Law is to ensure the provision of passenger and cargo shipping services to and from Sark for the benefit of residents of Sark and of visitors to Sark.

- (2) The objectives of this Law are –

^a Ordres en Conseil, Vol. XV, p. 37.

(a) to facilitate the provision of safe and reliable shipping services to and from Sark which are available throughout the year and with minimal interruption due to weather, and

(b) to ensure that such services are financially viable.",

(b) immediately after section 4, insert the following section -

"Obligation to consult.

4A. (1) Before exercising his powers under sections 2 or 4, His Excellency shall consult the Shipping Committee appointed by the Chief Pleas.

(2) Any failure on the part of His Excellency to consult the Shipping Committee under subsection (1) shall not affect the validity of any licence granted under section 2, or of any variation of any term or condition of, or revocation or suspension of, any such licence pursuant to a decision of His Excellency under section 4.",

(c) in section 5, for the words "One Hundred Pounds", substitute "level 4 on the Sark uniform scale under the Uniform Scale of Fines (Sark) Law, 1989,",

(d) immediately after section 5, insert the following section -

"Powers of Harbourmaster."

5A. (1) The Harbourmaster or the Constable may, if he has reasonable cause to suspect that an offence under this Law is being, or is likely to be, committed, prohibit a vessel -

- (a) from remaining in, or entering, La Maseline Harbour or Le Creux Harbour; and
- (b) from berthing or mooring alongside, or remaining berthed or moored alongside, any breakwater, pier or other landing area or beach over which the Committee has control under the Harbours (Sark) Ordinance, 1987, as amended,

and a person, being the owner, charterer or otherwise having control over, or being the master or other person in charge of, a vessel, who, without reasonable excuse, causes or permits that vessel to remain in, or enter, either of the said harbours, or to berth or moor, or remain berthed or moored, alongside any breakwater, pier or other landing area or beach as aforesaid, in contravention of such a prohibition, is guilty of an offence under section 5.

(2) The Harbourmaster or the Constable may, if he has a reasonable suspicion that an offence under this Law may have been committed -

- (a) enter upon and remain upon any vessel, or
- (b) having obtained a warrant so to do upon information laid on oath before the Seneschal,

in accordance with that warrant and on production of it if so required, enter and remain upon any premises,

and may carry out such inspection and make such other photographic or other record as he reasonably considers appropriate for the purpose of establishing whether or not an offence has been committed.",

(e) for section 6(b), substitute -

"(b) an act of trade in connection with a vessel at, or in the territorial waters of, the Island of Sark, means -

(i) the embarkation or disembarkation of passengers, or

(ii) the loading or unloading of cargo.",

(f) the proviso to section 6 is repealed,

(g) in section 7, for the words "yacht *bona fide* used exclusively for pleasure" substitute "pleasure vessel", and

(h) immediately after section 7, insert the following sections -

"Power of Chief Pleas to confer exemptions.

7A. The Chief Pleas may by Ordinance confer exemption from

the requirements of this Law on any description or class of person or vessel, or on any type of activity carried out by any such person or vessel, subject to such conditions or limitations as may be specified.

Interpretation.

7B. (1) In this Law, unless the context otherwise requires –

"**Assistant Constable**" means a person appointed by the Chief Pleas to act as an Assistant Constable pursuant to section 53 of the Reform (Sark) Law, 2008, as amended,

"**cargo**" means all items which are transported by the vessel except –

- (a) fuel for the vessel,
- (b) ballast (either solid or liquid),
- (c) consumables to be used on board,
- (d) permanent outfit and equipment of the vessel,
- (e) stores and spare gear for the vessel, and
- (f) the personal effects of the crew and any passengers,

"**the Committee**" means the Harbours and Pilotage Committee or such other committee as may be appointed by the Chief Pleas to exercise the functions of the Committee

under this Law,

"the Constable" means a person appointed by the Chief Pleas to act as Constable pursuant to section 52 of the Reform (Sark) Law, 2008, as amended and shall include the Vingtenier, an Assistant Constable, a special constable and a Guernsey police officer on duty in Sark,

"customs officer" means an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972,

"Guernsey police officer" means a member of the salaried police force of the Island of Guernsey, and includes a customs officer,

"Harbourmaster" means the person employed in that capacity by the Chief Pleas and includes any person acting under the authority of the Harbourmaster,

"passenger" means any person carried in a vessel other than -

- (a) the master and the members of the crew or other persons employed or engaged in any capacity on board a vessel on the business of that vessel,
- (b) a child under one year of age, and

- (c) persons who are on board the vessel by reason of force majeure or in consequence of any obligation laid upon the master or other person having control of the vessel to carry shipwrecked or other persons, or by reason of any circumstances that neither the master nor such other person having control of the vessel, nor the owner nor the charterer (if any), could have prevented,

"pleasure vessel" means any vessel which is -

- (a) wholly owned by an individual or individuals and used only for the sport or pleasure of the owner or the immediate family or friends of the owner, or
- (b) owned by a body corporate and used only for the sport or pleasure of employees or officers of the body corporate, or their immediate family or friends,

and is on a voyage or excursion which is one for which the owner is not paid for or in connection with operating the vessel or carrying any person, other than as a contribution to the direct expenses of the operation of the vessel incurred during the voyage or excursion.

"special constable" means a person appointed to be a special constable pursuant to section 54 of the Reform (Sark)

Law, 2008, and

"the Vingenier" means the person appointed to act as Vingenier pursuant to section 52 of the Reform (Sark) Act, 2008.

(2) The Chief Pleas may by Ordinance amend the definitions of **"cargo"**, **"passenger"**, and **"pleasure vessel"** in subsection (1).

General provisions as to Ordinances.

7C. (1) Any Ordinance made under this Law –

- (a) may be amended or repealed by a subsequent Ordinance or subordinate legislation made hereunder, and
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient.

(2) Any power conferred by this Law to make any Ordinance or subordinate legislation 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."

Interpretation.

2. The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Law.

Citation.

3. This Law may be cited as the Alderney and Sark (Licensing of Vessels) (Amendment) (Sark) Law, 2010.

Commencement.

4. This Law shall come into force on a date to be appointed by

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

Ordinance of the Chief Pleas, and different dates may be appointed for different provisions of this Law and for different purposes.

S. M. D. ROSS,
Her Majesty's Deputy Greffier.

**Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey.**

PRICE £5.00

Printed by Image Group, Caslon Court, Pitronnerie Road, St Peter Port, Guernsey GY1 3NE