

# PROJET DE LOI

ENTITLED

## **The Tractors (Sark) Law, 1974 \***

[CONSOLIDATED TEXT]

### NOTE

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from the Greffier, La Chasse Marette, Sark, GY10 1SF.*

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\* Ordres en Conseil Vol. XXIV, p. 344; as amended by the Tractors (Amendment) (Sark) Law, 1983 (Ordres en Conseil Vol. XXVIII, p. 324); the Tractors (Amendment) (No. 2) (Sark) Law, 1983 (Ordres en Conseil Vol. XXVIII, p. 341); the Tractors (Amendment) (Sark) Law, 1988 (Ordres en Conseil Vol. XXXI, p. 13); the Uniform Scale of Fines (Sark) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 320); the Tractors (Amendment) (Sark) Law, 2006 (No. V of 2007); the Reform (Sark) Law, 2008 (No. V of 2008). This Law is repealed by the Motor Vehicles (Sark) Law, 2013 (No. \*\* of 2013).

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## **The Tractors (Sark) Law, 1974**

### ARRANGEMENT OF SECTIONS

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2. Application for a tractor licence.
3. Grant or refusal of tractor licences.
4. Duration of validity of tractor licence.
5. Restrictions on grant and renewal of tractor licences.
6. Specified tractor and applicant and licences not transferable.
7. Tractor licences of no effect till issued.
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SCHEDULE Laws repealed.

## **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.

### **Tractors to be licensed.**

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.

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#### **NOTE**

*In accordance with the provisions of the Tractors (Amendment) (Sark) Law, 1988, section 3, with effect from 19th April, 1988, this Law may, when cited together with the Tractors (Amendment) (No. 2) (Sark) Law, 1983 and the 1988 Law, be cited as the Tractors (Sark) Laws, 1974 to 1988.<sup>1</sup>*

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### **Application for a tractor licence.**

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.

(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.

**Duration of validity of tractor licence.**

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.

(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.

**Restrictions on grant and renewal of tractor licences.**

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

- (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.

**Constable to issue tractor licences on payment of tax.**

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.

**Test certificate.**

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.

(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 [as shall be prescribed by Resolution of the Chief Pleas, which shall not exceed the amount prescribed for that purpose by an Ordinance of the Chief Pleas] [and the tax so paid shall be paid by the Constable to Chief Pleas and shall be applied towards expenditure for public purposes].

(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 [fifty 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.

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## NOTES

*In section 10,*

*the words in the first pair of square brackets in subsection (2) were substituted by the Tractors (Amendment) (Sark) Law, 2006, section 1, with effect from 19th February, 2007;<sup>2</sup>*

*the words in the second pair of square brackets in subsection (2) were inserted by the Reform (Sark) Law, 2008, section 66(1), Schedule 1, with effect from 1st September, 2008;*

*the words in square brackets in subsection (3) were substituted by the Tractors (Amendment) (No. 2) (Sark) Law, 1983, section 1(b), with effect from 16th January, 1984.*

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**Insurance of tractors.**

**11.** (1) Subject to the provisions of this section, 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**")<sup>a</sup>,
- (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 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

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<sup>a</sup> Ordres en Conseil Vol. X, p. 381.

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 importation 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 declarations.**

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.

**Appeals and references.**

**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.

(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.

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**NOTE**

*The following Ordinance has been made under section 14:*

*Tractors (Constitution of Tribunal) (Sark) Ordinance, 1974.*

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**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**")<sup>b</sup> for a tractor 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

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<sup>b</sup> Ordres en Conseil Vol. XVII, p. 128.

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 [...].

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**NOTE**

*In section 16, the words omitted in square brackets in subsection (2) were repealed by the Tractors (Amendment) (Sark) Law, 1988, section 1, with effect from 19th April, 1988.*

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**Driving under the influence of drink, etc.**

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.

**Offences.**

18. A person who –

- (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 [level 1 on the Sark uniform scale] 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.

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**NOTE**

*In section 18, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Sark) Law, 1989, section 2(2), with effect from 1st November, 1989.*

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**[Variation or repeal of Resolutions.]**

**18A.** 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.]

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**NOTE**

*Section 18A was inserted by the Tractors (Amendment) (Sark) Law, 1983, section 1(a), with effect from 15th November, 1983.*

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**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 [or electrically] 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 [and includes such other mechanically or electrically propelled vehicle which is of a make and type for the time being prescribed as a tractor for the purposes of this Law].



(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<sup>c</sup> shall apply to the interpretation of this Law as if the same were an enactment in force in the Island of Guernsey.

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**NOTE**

*In section 20, the words in the first and second pairs of square brackets in the definition of the expression "tractor" in subsection (1) were inserted by the Tractors (Amendment) (Sark) Law, 1983, section 1(b), with effect from 15th November, 1983.*

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**Citation.**

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

**Commencement.**

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

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**NOTE**

*The Law was brought into force on 1st December, 1974 by the Tractors (Sark) Law, 1974 (Commencement) Ordinance, 1974, section 1.*

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<sup>c</sup> Ordres en Conseil Vol. XIII, p. 355.

SCHEDULE  
LAWS REPEALED

Section nineteen

The Motor Vehicles (Sark) Law, 1956<sup>d</sup>.

The Motor Vehicles (Amendment) (Sark) Law, 1960<sup>e</sup>.

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<sup>1</sup> Previously, with effect from 16th January, 1984, this change in collective title was first made in accordance with the provisions of the Tractors (Amendment) (No. 2) (Sark) Law, 1983, section 3(2).

<sup>2</sup> Subsection (2) was previously amended by the Tractors (Amendment) (No. 2) (Sark) Law, 1983, section 1(a), with effect from 16th January, 1984.

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<sup>d</sup> Ordres en Conseil Vol. XVII, p. 128.

<sup>e</sup> Ordres en Conseil Vol. XVIII, p. 241.