

# ORDINANCE OF THE CHIEF PLEAS

ENTITLED

## **The Alderney and Sark (Licensing of Vessels) (Exemptions) (Sark) Ordinance, 2012**

**THE CHIEF PLEAS OF SARK**, in pursuance of their Resolution of the 3<sup>rd</sup> day of October, 2012 and in exercise of the powers conferred upon them by section 7A of the Alderney and Sark (Licensing of Vessels) Law, 1951<sup>a</sup> and of all other powers enabling them in that behalf, hereby order:-

### **Exemptions.**

1. The requirements of the Law do not apply to the owner, charterer or person otherwise having control over, or the master or other person in charge of, a vessel in the circumstances set out in the Schedule to this Ordinance.

### **Interpretation.**

2. (1) In this Ordinance, unless the context requires otherwise -
- (a) words and expressions shall have the same meaning as they have for the purposes of the Law, and
  - (b) "**the Law**" means the Alderney and Sark (Licensing of Vessels) Law, 1951.
- (2) A reference in this Ordinance to an enactment is a reference thereto as from time to time amended, repealed and re-enacted (with or without modification), extended or applied.

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<sup>a</sup> Ordres en Conseil, Vol. XV, p. 37 and Orders in Council No. XVII of 2011.

(3) The Interpretation (Guernsey) Law, 1948<sup>b</sup> applies to the interpretation of this Ordinance.

**Citation.**

3. This Ordinance may be cited as the Alderney and Sark (Licensing of Vessels) (Exemptions) (Sark) Ordinance, 2012.

**Commencement.**

4. This Ordinance shall come into force on the 1<sup>st</sup> January, 2013.

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

SCHEDULE

Circumstances in which Law does not apply

**Brecqhou.**

1. Where an act of trade occurs at Brecqhou, provided that -
  - (a) any passenger who embarks at Brecqhou has not, previously on the same day, arrived at Brecqhou -
    - (i) from any other part of the Island of Sark or the territorial waters of the Island of Sark, with the intention of travelling to a place outside the Island of Sark or the territorial waters, or
    - (ii) from a place outside the Island of Sark or the territorial waters of the Island of Sark, with the intention of travelling to any other part of the Island of Sark or the territorial waters,
  - (b) any passenger who disembarks at Brecqhou -
    - (i) having arrived there from any other part of the Island of Sark or the territorial waters of the Island of Sark, does not intend, subsequently the same day, to embark on any vessel in order to disembark at a place outside the Island of Sark or the territorial waters, and
    - (ii) having arrived there from any place outside the Island of Sark or the territorial waters of the Island of Sark does not intend, subsequently the same day, to embark on any vessel in order to

disembark at any other part of the Island of Sark or the territorial waters,

- (c) any cargo –
  - (i) that is loaded at Brecqhou, does not include anything that has been transported to Brecqhou from any other part of the Island of Sark or the territorial waters of the Island of Sark for the purpose of being so loaded, or
  - (ii) that is unloaded at Brecqhou, does not include anything that it is intended should subsequently be loaded onto a vessel for onward shipment to and unloading at any other part of the Island of Sark or in the territorial waters of the Island of Sark.

**Qualifying recreational voyages.**

2. (1) Where an act of trade consists only in the embarkation or disembarkation of a passenger during the course of a qualifying recreational voyage.

(2) For the purposes of subparagraph (1), a "**qualifying recreational voyage**" means a voyage –

- (a) commencing from, and ending at, a place other than a place situated in Guernsey or Herm,
- (b) where –
  - (i) the initial place of embarkation, and
  - (ii) the final place of disembarkation,

of every passenger on the voyage is a place other than a place situated in Guernsey or Herm, and

- (c) during the course of which, the embarkation or disembarkation of any passenger at, or in the territorial waters of, the Island of Sark -
  - (i) is incidental to the primary purpose of the voyage, and
  - (ii) takes place upon, or from, the same vessel during the course of the same voyage.

**Special Sark disembarkation.**

3. (1) Where an act of trade consists only in the disembarkation of a qualifying passenger during the course of a special qualifying voyage.

(2) For the purposes of subparagraph (1) -

a "**qualifying passenger**" means a person who -

- (a) is ordinarily resident in Sark, and
- (b) can demonstrate that, had he not embarked upon a vessel used in a special qualifying voyage, he would have been unreasonably delayed in returning to his usual place of abode in Sark from the point of embarkation, and

a "**special qualifying voyage**" means a voyage commencing from a place other than a place situated in Guernsey or Herm.

**Emergency etc.**

4. Where an act of trade occurs further to, or consequent upon, an emergency or other circumstances which could not reasonably have been foreseen.