

PROJET DE LOI

ENTITLED

The Road Traffic Offences (Motor Vehicles and Bicycles) (Sark) Law, 2013

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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

Offences

Causing death by dangerous driving.

1. (1) It is an offence to cause the death of another person by the driving of a motor vehicle on a public road dangerously.

(2) If, upon the trial of a person for an offence under subsection (1), the court is not satisfied that his driving was the cause of the death but is satisfied that he is guilty of driving as mentioned in that subsection, the court may convict him of and punish him for an offence under the provisions of any enactment for the time being in force which makes such driving an offence, including this Law.

Dangerous driving.

2. It is an offence to drive a motor vehicle on a public road dangerously.

Meaning of dangerous driving.

3. (1) For the purposes of sections 1 and 2 above a person is to be regarded as driving dangerously if (and, subject to subsection (2) below, only if) –

- (a) the way he drives falls far below what would be expected of a competent and careful driver, and
- (b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.

(2) A person is also to be regarded as driving dangerously for the purposes of sections 1 and 2 if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.

(3) In subsections (1) and (2) "**dangerous**" refers to danger either of injury to any person or of serious damage to property; and in determining for the purposes of those subsections what would be expected of, or obvious to, a competent and careful driver in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

Causing death by careless or inconsiderate driving.

4. (1) It is an offence to cause the death of another person by driving a motor vehicle on a public road without due care and attention, or without reasonable consideration for other persons using the road.

(2) If, upon the trial of a person for an offence under subsection (1), the court is not satisfied that his driving was the cause of the death but is satisfied that he is guilty of driving as mentioned in that subsection, the court may convict him of and punish him for an offence under the provisions of any enactment for the time being in force which makes such driving offence, including this Law.

Causing death by careless driving when under the influence of drink or drugs.

5. (1) If a person causes the death of another person by driving a motor vehicle on a public road without due care and attention, or without reasonable consideration for other persons using the road, and –

- (a) he is, at the time when he is driving, unfit to drive through drink or drugs, or
- (b) he has consumed so much alcohol that the proportion of it in his breath, blood or urine at that time exceeds a limit prescribed in an Ordinance made under section 12(1)(c)(i),

he is guilty of an offence.

(2) For the purposes of this section a person shall be taken to be unfit to drive if he is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle.

Driving under the influence of drink or drugs.

6. (1) It is an offence for a person to drive or attempt to drive a motor vehicle on a public road, or be in charge of a motor vehicle on a public road, when –

- (a) he is unfit to drive through drink or drugs, or
- (b) he has consumed so much alcohol that the proportion of it in his breath, blood or urine at that time exceeds a limit prescribed in an Ordinance made under section 12(1)(c)(i).

(2) For the purposes of this section, a person shall be deemed not to have been in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of his driving so long as he remained unfit to drive through drink or drugs; but in determining whether there was such a likelihood the court may disregard any injury to him and any damage to the motor vehicle.

(3) For the purposes of this section, a person shall be taken to be unfit to drive if he is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle.

Driving when disqualified.

7. It is an offence for a person to drive a tractor when he is disqualified by an order of the court from holding or obtaining a tractor driving licence, and it is an offence for a person to drive or operate a construction vehicle when he is disqualified by an order of the court from so doing.

Careless, and inconsiderate, driving.

8. It is an offence to drive a motor vehicle on a public road without due care and attention or without reasonable consideration for other persons using the road.

Dangerous cycling.

9. (1) It is an offence to ride a bicycle on a public road dangerously.

(2) In subsection (1) "**dangerous**" refers to danger either of injury to any person or of serious damage to property; and in determining for the purposes of that subsection what would be obvious to a competent and careful cyclist in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.

Cycling when under the influence of drink and drugs.

10. (1) It is an offence to ride a bicycle on a public road when unfit to ride a bicycle through drink or drugs.

(2) For the purposes of this section, a person shall be taken to be unfit to ride a bicycle if he is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the bicycle.

Careless, and inconsiderate, cycling.

11. It is an offence to ride a bicycle on a public road without due care and attention or without reasonable consideration for other persons using the road.

Ordinances as to provision of specimens, and related matters.

12. (1) Subject to the provisions of this section, Chief Pleas may by Ordinance provide for –

- (a) the provision of samples of breath, urine and blood by a person driving, attempting to drive or in charge of a motor vehicle on a public road in order to ascertain whether he has any alcohol or other drug in his body,

- (b) the approval by the Committee of devices to test whether a person driving, attempting to drive or in charge of a motor vehicle on a road has any alcohol or other drug in his body,
- (c) the creation of offences of -
 - (i) driving, attempting to drive or being in charge of a motor vehicle on a public road after consuming so much alcohol that the proportion of it in a person's breath, blood or urine exceeds such limits as may be prescribed, and
 - (ii) failing to provide a sample to ascertain whether a person driving, attempting to drive or in charge of a motor vehicle on a public road has any drug in his body, and
- (d) the temporary detention by the Constable of a person required to provide a sample under an Ordinance made under this section, until it appears to the Constable that were that person to drive or attempt to drive a motor vehicle on a public road, he would not be committing an offence under section 6(1).

(2) The penalty on summary conviction for an offence in an Ordinance made under this section of the type set out in subsection 1(c)(i) shall not exceed 12 months imprisonment, or a fine not exceeding twice level 5 on the uniform scale, or both.

(3) The penalty on summary conviction for an offence in an Ordinance made under this section of the type set out in subsection (1)(c)(ii) shall not exceed six months imprisonment, or a fine not exceeding level 5 on the uniform scale, or both.

Restriction on use of trailers.

13. It is an offence to use, or cause or permit any other person to use, on a public road a tractor to which is attached a trailer where –

- (a) the load carried by the trailer exceeds such weight as the Committee may prescribe from time to time by regulations, or
- (b) the load carried by the trailer is so secured or is in such a position that danger or damage is likely to be caused to any person in or on the tractor or trailer or on a public road, or to property, by reason of the load or any part or accessory thereof falling from the trailer, or by reason of any other movement of the load or any part or accessory thereof in relation to the trailer.

Speed limits and overtaking.

14. (1) Subject to subsection (2), it is an offence to drive a motor vehicle on a public road at a speed exceeding ten miles per hour.

(2) It is an offence to drive a motor vehicle on any public road specified from time to time for this purpose by the Committee by regulations at a speed exceeding five miles an hour.

(3) It is an offence for a person in charge of a motor vehicle to overtake any other motor vehicle on such of the public roads or any part thereof as may, from time to time, be specified by the Committee by regulations during such hours on any day as may be specified in any such regulations.

(4) It is a defence for a person charged with an offence of overtaking a motor vehicle under subsection (3) to prove that it was necessary to overtake the motor vehicle in order –

(a) to avoid an accident, or

(b) to comply with a direction given by the Constable or any police officer.

Restricted hours, one-way streets etc.

15. (1) It is an offence for a person, otherwise than for agricultural purposes and with the consent in writing of the Constable, to drive or attempt to drive a motor vehicle on a public road between ten o'clock at night and six o'clock in the morning.

(2) It is an offence to drive or attempt to drive a motor vehicle on such of the public roads or any part thereof as may, from time to time, be specified by the Committee by regulations, otherwise than –

(a) in such direction, and

(b) during such hours on any day,

as may be specified therein.

(3) Subject to subsection (4), it is an offence for a person in charge of a motor vehicle to drive or attempt to drive that motor vehicle, or to cause or permit it to remain on the jetty of La Maseline Harbour or the jetty of Creux Harbour, or anywhere in the area between those harbours extending up harbour hill and ending in a parallel line with the most western end of the water tanks situated on the south side of harbour hill, except –

- (a) in compliance with such directions as may, from time to time, be prescribed by the Committee by regulations, or
- (b) as otherwise directed in an emergency by the Constable or the Harbourmaster.

(4) For the avoidance of doubt, if a person holds a tractor licence the conditions of which permit him to drive on one or both of the jetties, or in the area, specified in subsection (3), it is not an offence under that subsection for him to drive or attempt to drive, or to cause or permit to remain, a tractor there.

(5) It is an offence to drive or attempt to drive a motor vehicle on or along any of the public roads on a Sunday without the permission in writing of the Constable.

Exemption of tractors used by Constable etc.

16. Nothing in section 14 or 15 shall apply to –

- (a) the Constable, a police officer, or a member of the Sark Fire and Rescue Service if the observance of the provisions of those sections would be likely to hinder

that person in the exercise of his duties as Constable, police officer or member of the Sark Fire and Rescue Service (as the case may be),

- (b) the Island Medical Officer travelling to a medical emergency,
- (c) a person driving a tractor hauling the Sark ambulance to or from a medical emergency, or otherwise being used for the purposes of facilitating urgent medical assistance, or
- (d) a veterinary surgeon travelling to a veterinary emergency.

Keep left rule and obstruction.

17. (1) A person in charge of a motor vehicle on a public road shall, when meeting any vehicle or pedestrian or horse or other animal proceeding in the opposite direction or when being overtaken by any vehicle or horse or other animal, keep to the left-hand or near side of the road.

(2) It is an offence for a person in charge of a motor vehicle on a public road to contravene subsection (1) or to otherwise obstruct or impede the free passage of the road.

Lights to be fitted to front and rear of vehicles, and parking lights.

18. (1) Subject to subsection (2), it is an offence to drive or attempt to drive a motor vehicle on a public road during the period from 30 minutes after sunset to 30 minutes before sunrise.

(2) A person does not commit an offence under subsection (1) if there are fitted in a conspicuous position to the motor vehicle in question –

(a) lights on the right front and left front, showing a white or yellow light that is clearly visible from 20 metres away, and

(b) lights on the right back and left back, showing a red light that is clearly visible from 30 metres away.

(3) Subject to subsection (4), it is an offence to park or leave parked any motor vehicle unattended on a public road during the hours of darkness.

(4) A person does not commit an offence under subsection (3) if there are fitted in a conspicuous position to the motor vehicle in question a light showing to the front a white light visible from twenty metres ahead and a light showing to the rear a red light visible from 20 metres behind.

Lights and bells on bicycles.

19. (1) It is an offence to ride on a public road a bicycle that does not have a working bell fitted to it.

(2) It is an offence for a person to ride a bicycle on a public road during the period from 30 minutes after sunset to 30 minutes before sunrise unless he shows a white light visible from 20 metres ahead.

Brakes.

20. It is an offence on a public road to drive or attempt to drive a motor vehicle, or to ride a bicycle, that is not fitted with an efficient braking system.

Conveyance of passengers on tractors.

21. (1) Subject to subsection (2), it is an offence for a person in charge of a tractor to carry or attempt to carry –

- (a) more than 10 passengers on that tractor on any of the public roads between the crossroads at La Collenette and La Maseline Harbour or Creux Harbour, and
- (b) more than one passenger on that tractor on any other public road.

(2) This section shall not apply to a person in charge of -

- (a) a tractor being used the purposes of facilitating urgent medical assistance, or by or for the purposes of any emergency service,
- (b) a tractor carrying passengers for agricultural purposes if the consent of the Constable in that behalf is obtained in respect of each day on which the tractor is carrying such passengers,
- (c) a tractor carrying fare-paying passengers in connection with the operation of any public transport service which may, from time to time, be approved by Resolution of Chief Pleas,
- (d) a tractor driven by the Island Medical Officer travelling to a medical emergency, or a veterinary surgeon travelling to veterinary emergency, or

- (e) a tractor carrying one or more passengers who are either incapacitated by reason of injury, illness or age, or who are transporting an injured animal to or from treatment, where the permission of the Constable to carry that passenger or those passengers has been obtained in advance.

- (3) In this section, references to a "**tractor**" include a trailer.

Tracked vehicles.

22. It is an offence, without the prior permission of the Constable on each occasion, for a person to drive or attempt to drive, or cause or permit any other person to drive or attempt to drive, on a public road a tracked vehicle.

Power to make regulations prohibiting use of bicycles on dangerous roads.

23. It is an offence for a person to ride or attempt to ride a bicycle on any public road or part thereof identified by the Committee as not being safe for cyclists, and specified for this purpose by regulations made by the Committee.

PART 2

Penalties

Penalties.

- 24. (1) Subject to subsections (2) to (4) –
 - (a) a person guilty of an offence under section 1 or 5 shall be liable on conviction on indictment to imprisonment for a term not exceeding 14 years, or to a fine, or to both,

- (b) a person guilty of an offence under section 4 shall be liable –
 - (i) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding five years, or to a fine, or to both,

- (c) a person guilty of an offence under section 2 of this Law shall be liable –
 - (i) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding level 5 on the uniform scale, or to both;
 - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both,

- (d) a person guilty of an offence under section 6 or 7 shall be liable on summary conviction to six months' imprisonment or to a fine not exceeding level 5 on the standard scale, or to both,

- (e) a person guilty of an offence under section 8 shall be liable on summary conviction to a fine not exceeding level 5 on the uniform scale,
- (f) a person guilty of an offence under section 10 or 11 shall be liable on summary conviction to a fine not exceeding level 3 on the uniform scale,
- (g) a person guilty of an offence under section 19 shall be liable on summary conviction to a fine not exceeding level 2 on the uniform scale, and
- (h) a person guilty of any other offence under this Law shall be liable on summary conviction to a fine not exceeding level 4 on the uniform scale.

(2) A person guilty of an offence under section 1, 4 or 5 shall also be disqualified from holding or obtaining a tractor driving licence and from driving or operating a construction vehicle on a public road for a period of not less than two years from the date of conviction, unless the court for special reasons thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

(3) A person guilty of an offence under section 2, 6 or 7 shall also be disqualified from holding or obtaining a tractor driving licence and from driving or operating a construction vehicle on a public road for a period of not less than six months from the date of conviction, unless the court for special reasons thinks fit to order him to be disqualified for a shorter period or not to order him to be disqualified.

(4) The court may also order that a person guilty of an offence under section 8 be disqualified from holding or obtaining a tractor driving licence and from driving or operating a construction vehicle on a public road for such period as the court thinks fit.

PART 3

Final provisions

General provisions as to subordinate legislation.

- 25.** (1) Any Ordinance or regulation made under this Law –
- (a) may, in the case of an Ordinance, and for the avoidance of doubt –
 - (i) create new offences, save that the penalty for any offences so created may not (apart from in the case of an Ordinance made under section 12) exceed three months' imprisonment, or a fine not exceeding level 5 on the uniform scale, or both, 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) 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.

Interpretation.

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

"bicycle" includes tricycle,

"the Committee" has the meaning given in the Motor Vehicles Law,

"the Constable" has the meaning given in the Motor Vehicles Law,

"construction vehicle" has the meaning given in the Motor Vehicles Law,

"enactment" has the meaning given in the Motor Vehicles Law,

"invalid carriage" has the meaning given in the Motor Vehicles Law,

"Island Medical Officer" has the meaning given in the Motor Vehicles Law,

"motor vehicle" has the meaning given in the Motor Vehicles Law,

"the Motor Vehicles Law" means the Motor Vehicles (Sark) Law, 2013,

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

"**policy of insurance**" includes a cover note,

"**public road**" has the meaning given in the Motor Vehicles Law,

"**tracked vehicle**" means a tractor, construction vehicle or combine harvester that moves on tracks, and for the avoidance of doubt includes such a vehicle if it is propelled both by tracks and other means (sometimes referred to as a "half track" vehicle),

"**tractor**" has the meaning given in the Motor Vehicles Law, and

"**uniform scale**" has the meaning given in the Motor Vehicles Law.

(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^a shall apply to the interpretation of this Law as it applies to the interpretation of an enactment in force in Guernsey.

Citation.

27. This Law may be cited as the Road Traffic Offences (Motor Vehicles and Bicycles) (Sark) Law, 2013.

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

Commencement.

28. This Law shall come into operation on such date as the Chief Pleas may by Ordinance appoint, and such an Ordinance may appoint different days for different provisions and different purposes.