



SHIPPING COMMITTEE

A COMMITTEE OF THE CHIEF PLEAS OF SARK
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Consultation regarding the implementation of The Alderney and Sark (Licensing of Vessels) (Amendment) (Sark) Law, 2010

On October 12th 2011 the above law received Royal Assent. This law will not come into force until commenced by Ordinance of Chief Pleas and will not affect anyone in 2012.

The attached report, which received the approval of the Chief Pleas of Sark in January 2012, explains the manner in which the Sark Shipping Committee recommends that the law should be brought into effect. It also suggests that the opportunity be given to any interested party to make any representations they may wish by 31st May 2012.

In an effort to publicise this opportunity, the Committee is sending this letter, with a copy of the report, to those interested parties of which it is presently aware. It is also posting this letter and the report on the Sark Government website and in such other locations as it feels will help meet this objective – www.gov.sark.gg. A copy of the consolidated text is also available on the website as a reference but it is stressed that this is not yet in force.

The Committee would like to make you aware of this opportunity and hope that the report adequately explains the intentions and motivations behind the amendments.

If you have any comments or concerns please address them to the Sark Shipping Committee at the above address or email - shipping@gov.sark.gg

SHIPPING COMMITTEE

Report with proposition to Christmas Chief Pleas, 18th January 2012

**THE ALDERNEY AND SARK (LICENSING OF VESSELS)
(AMENDMENT) (SARK) LAW, 2010**

The above law received Royal Assent on 12th October 2011 but will only become law in Sark when commenced by Chief Pleas by Ordinance. This report by the Shipping Committee is intended to give a timetable to commencement and explain and justify how it suggests the Law should be implemented whilst giving both the time and opportunity for all interested parties to comment.

Following the presentation of this document which explains the current views of the Committee, there will be the opportunity for any representations regarding the commencement and implementation of this Law to be made and properly considered.

The starting point for all the actions suggested in this report is Section 1A (1) and (2) of the new Law which states the *'purpose and objectives of this Law'*. The overriding motivation being 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'*, and *'to facilitate the provision of safe and reliable shipping services to and from Sark which are available throughout the year and with minimum disruption due to weather, and to ensure that such services are financially viable'*.

The Shipping Committee believes that in order to ensure that the services required to achieve this are sustainable, a degree of control is required.

The existing 1951 Law offers a considerable degree of control through its licensing system. This new Law updates, clarifies and strengthens much of the 1951 law, particularly with regard to the definitions of *'cargo'*, *'passenger'*, *'act of trade'* and *'pleasure vessels'* and gives the Harbourmaster and Constable suitable, practical powers to deal with any offence committed or suspected.

It also updates the licensing system to include vessels coming from or going to not only Guernsey, but anywhere, with the additional benefit of Chief Pleas being able to exempt from the requirement to be licensed, particular activities, vessels or routes by Ordinance. It should be noted that where an exemption conferred by Chief Pleas applies to only some of a vessel's activities, there is nothing to prevent the owner or operator of that vessel from applying for a licence under the Law, the effect of which will be to extend the activities, routes etc. that the vessel may lawfully pursue.

The justification for this new control is found in the purpose and objectives of the law. Too much competition within any aspect of shipping services to Sark will make that service unsustainable. This point is a conclusion in the 2007 Spencer Report and is further evidenced by the withdrawal some years ago of all passenger services to Sark from France and Jersey for a year following a year in which services were operated by three companies.

What is so wrong with the services we have now?

Isle of Sark Shipping Company (IoSS) provide an excellent passenger and freight service from Guernsey, Manche îles an excellent service between France, Jersey and Sark during the Summer; the *Brecqhou Warrior* only brings materials for Sark Estate Management (SEM) projects from ports other than Guernsey and operations to and from Brecqhou do not have any adverse effect on the stated purpose. 12 and under operations between Guernsey and Sark are controlled by the existing licensing regime to be as beneficial to residents of and visitors to Sark as possible.

The Shipping Committee believes that the balance of services we have now is sustainable, and our recommendations as to the application of this new Law will reflect this. However, there will be future developments, ideas and opportunities, some highly desirable and some less so, that this new law ensures can be developed *'for the benefit of the residents of Sark and of visitors to Sark'*.

The Committee is also mindful that the tidal energy initiative could bring some very large companies and considerable shipping activity to our waters.

How do we propose to apply the provisions of this new law?

The Committee suggests taking the approach that any activity with the potential to affect the purpose and objectives of this Law should be brought within the licensing regime. Those activities that have no or minimal impact can safely be exempted.

First it should be emphasised that the Shipping Committee only has an advisory role in licensing. The licensing authority is HE the Lieutenant Governor who considers applications in accordance with the provisions of the legislation which is enacted by Chief Pleas.

The suggestions of the Committee though are that Licenses issued under the existing 1951 Law should remain with the same terms and conditions with the additional option of being able to be extended to cover 'all ports' subject to any recommended conditions that might be thought necessary to achieve the purpose of the Law;

The following recommendations cover ports other than Guernsey and Herm, and are considered by the Committee as suitable to achieve the stated aim of this Law -

- Small commercial vessels under 23 metres (Charter, diving, angling, sailing as examples) and all sail training vessels, bringing passengers to Sark who embarked at ports other than Guernsey or Herm, less frequently than weekly, and where the main purpose of the voyage is other than a passage to Sark we recommend should be exempted. These vessels tend not to run to a schedule, do not generally use the harbours, preferring to moor or anchor in bays around the island, taking passengers who tend to be accommodated on board, ashore by dinghy.
- Larger commercial vessels, vessels wishing to run a scheduled passenger service and vessels where the purpose of the voyage is a passage to Sark, from ports outside Guernsey and Herm, we recommend should be brought within the licensing regime. This would be to ensure that the services proposed were both sustainable and beneficial, it would enable the best possible coordination of services to maximise passenger numbers and make best use of our small harbours. At present the companies affected by this would be Manche îles who have a long and highly beneficial relationship with Sark and, more recently, Vedettes Cotentin with their 12 and under vessels (a company of which we have little knowledge) with whom we would expect to talk in order to maximise any benefits for all concerned.
- Cruise liners bringing passengers direct to Sark are highly beneficial to the residents, bringing benefits to many tourism related businesses. We recommend that we engage in discussions with all involved to make sure that we apply this law in the most appropriate way.

- Vessels bringing Cargo from ports other than Guernsey we recommend should be brought within the licensing regime. This would be to ensure that the carriage of cargo to Sark by that vessel is consistent with the purpose and objective of the Law. The Committee considers a situation where large volumes of cargo that would normally be carried by IoSS, (ensuring the viability of that lifeline cargo service) are instead brought by other carriers, would not be in the best long term interest of the residents of Sark. The result would be either a much reduced service from Guernsey by IoSS, particularly in the Winter, or the requirement for a subsidy from the Sark tax payer to prevent unacceptably high charges. At present the vessels affected by this recommendation would be the *Brecqhou Warrior* and possibly a couple of small Jersey boats. Could the present activities of the *Brecqhou Warrior* be argued as being consistent with the purpose and objective of the Law? Some will argue that they are consistent, others that they are not. The Committee is of the opinion that at the present time they are at least not overly detrimental. It must though be realised that cargo which is not carried by IoSS and which the Company could reasonably carry, reduces the potential income for the Island owned company and therefore the ability to offer its services at a lower cost to all Islanders.
- Any vessel operating to or from Brecqhou where that island is the intended final destination or initial starting point for any cargo or passengers we suggest should be exempt from any licensing requirement.
- This law exempts 'pleasure vessels' or fishing vessels not carrying passengers or cargo other than fish.

The Committee is of the opinion that a suitable period of time for all interested parties to comment on the implementation of this Law is four months and suggests 31st May as the final date for the receipt of these comments. We would therefore propose to bring a report to the Midsummer Chief Pleas 2012 with the Committee's recommendations for final debate, so that the necessary commencement and exemption Ordinances can be brought to Michaelmas Chief Pleas for approval with the intention that the new Law can be fully operational before the next round of licensing for the year 2013.

Proposition –

That Chief Pleas approve of the timetable suggested by the Shipping Committee for the implementation of the Alderney and Sark (Licensing of Vessels) (Amendment) (Sark) Law, 2010

**Conseiller Andrew Cook
Chairman, Shipping Committee**