

ORDINANCE OF THE CHIEF PLEAS

ENTITLED

The Harbours (Sark) (Amendment) Ordinance, 2010

THE CHIEF PLEAS OF SARK, in pursuance of their Resolution of the 7th day of July, 2010, and in exercise of the powers conferred upon them by section 37 of the Reform (Sark) Law, 2008^a and of all other powers enabling them in that behalf, hereby order:-

Amendment of 1987 Ordinance.

1. (1) The Harbours (Sark) Ordinance, 1987 ("**the Ordinance**") as amended^b is further amended as follows.

(2) For section 1, substitute the following –

"Control of harbours and specified bays.

1. (1) The Committee shall be responsible for all necessary maintenance work at Les Laches Bay, Le Creux Harbour, La Maseline Jetty, the slipway between Le Creux and La Maseline, and Havre Gosselin.

(2) The Committee shall have control of the areas specified in subsection (1) and also of the bay known as Greve de la Ville.

Placing of moorings in Controlled Zone prohibited without permission.

1A. No person may place a mooring anywhere within the

^a Order in Council No. V of 2008; amended by No. VI of 2008 and No. XXVII of 2008

^b The Ordinance was amended by The Harbours (Sark) (Amendment) Ordinance, 2007

area ("the Controlled Zone") bounded by an imaginary line running anti-clockwise around Sark from Bec du Nez through the centre of Gouliot Passage, Peche Lucas, Moie de Viet, Pierre du Cours, La Conchee, the east side of Les Bourons and the north extremity of Petite Moie, and marked on the excerpt from Admiralty Chart 808 in the Schedule to this Ordinance."

(3) For section 2(b)(iii), for the words from and including "a mooring", substitute "the Committee has granted an application under section 3 for permission to place a mooring there".

(4) In section 2(c), delete "or south to north".

(5) For section 3, substitute the following -

"Power of Committee to permit placing of moorings in Controlled Zone.

3. (1) A person may apply to the Committee, in such manner as the Committee may specify from time to time, for permission to place a mooring in the Controlled Zone.

(2) The Committee may grant an application under subsection (1) subject to any conditions that it considers appropriate, including, without limitation, conditions specifying or otherwise restricting the vessel or vessels that may use the mooring, and any conditions relating to the insurance of the vessel or vessels to be moored there.

(3) Any condition to which permission is granted under subsection (2) may be varied or revoked at the discretion of the Committee.

(4) The Committee shall refuse to grant an application under subsection (1) where the Committee considers it appropriate, having regard to -

- (a) the need to protect the marine environment, the living resources which it supports, and human health,
- (b) the need to prevent interference with legitimate uses of the sea, and
- (c) the proper administration of the moorings within the Controlled Zone, and
- (d) such other matters as the Committee considers relevant.

(5) The Committee may consult such person or persons as it considers appropriate when considering whether it should refuse to grant an application under this section having regard to the matters set out in subsections (4)(a) and (4)(b).

Appeals.

3A. (1) Any person aggrieved by any decision of the Committee to refuse an application under section 3(1), or to impose a condition or conditions when granting such an application, may appeal therefrom to the Seneschal's Court ("the Court").

- (2) The grounds of an appeal under this section are that -
 - (a) the decision was ultra vires or there was some other error of law;
 - (b) the decision was unreasonable,

- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(3) An appeal under this section shall be instituted –

- (a) within a period of 14 days immediately following the date of the notice of the decision, and
- (b) by summons served on the Chairman of the Committee stating the grounds and material facts on which the appellant relies.

(4) On an appeal under this section the Court may -

- (a) set the decision of the Committee aside and, if the Court considers it appropriate to do so, remit the matter to the Committee with such directions as the Court thinks fit, or
- (b) confirm the decision, in whole or in part."

(6) After section 4, insert the following –

"Power to remove moorings.

4A. The Harbourmaster may remove, or cause to be removed, a mooring placed in the Controlled Zone without the permission of the Committee in contravention of section 1A."

(7) In section 5, before "The Committee" insert "(1)", and at the end of that section insert the following –

"(2) The Committee may recover from the owner of a mooring removed under section 4A as a simple contract debt the amount of any expenses reasonably incurred by it arising, directly or indirectly, out of that removal."

(8) In section 6A, in paragraph (a) after "named in a licence" insert "or using a mooring in the Controlled Zone".

(9) In section 7, before "A person who –" insert "(1)", and

(a) before paragraph (a), insert –

"(za) contravenes section (1A);",

(b) for paragraph (aa), substitute –

"(aa) moors his boat at a mooring without permission having been granted to place that mooring by the Committee under section 3;",

(c) in paragraph (ab), for "mooring allocated" substitute "permission granted",

(d) after paragraph (d), insert –

"(e) moors a vessel of more than 33 feet in overall length at a mooring at the approaches of Le Creux Harbour (also known as Les Laches

Bay), and

(f) moors a vessel of more than 16 feet in overall length at a mooring in Le Creux Harbour.",
and

(e) at the end of section 7 insert –

"(2) It shall be a defence for a person charged with an offence under subsection 1(aa) to show that he is a visitor to Sark and did not know, and had no reason to know, that the mooring had been placed unlawfully."

(10) In section 9 –

(a) delete the definition of "Court",

(b) in the definition of "Harbourmaster", for "sections 2 and 4" substitute "sections 2, 4 and 4A", and

(c) after the definition of "master" insert –

"mooring" means equipment for securing a vessel to the seabed that is not dropped or taken up by the secured vessel, including a buoy or buoys attached to one or more sinkers, anchors or deadmen by a length or lengths of chain, rope or wire; and "placing a mooring" means depositing that equipment or part of it on the seabed;".

(11) The Schedule set out in the Schedule to this Ordinance is inserted in the Ordinance.

Citation.

2. This Ordinance may be cited as the Harbours (Sark) (Amendment) Ordinance, 2010.

Section 11

SCHEDULE

Section 1A

SCHEDULE

This is the excerpt from Chart 808 that comprises the Schedule

to the Ordinance.

[Signature]
For the
Law Officers.

