

# ORDINANCE OF THE CHIEF PLEAS

ENTITLED

## **The Harbours (Sark) Ordinance, 2011**

**THE CHIEF PLEAS OF SARK**, in pursuance of their Resolution of the 19<sup>th</sup> day of January, 2011, and in exercise of the powers conferred upon them by section 37 of the Reform (Sark) Law, 2008<sup>a</sup> and of all other powers enabling them in that behalf, hereby order:-

### **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.**

2. Subject to section 4, no person may place a mooring anywhere within the 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.

---

<sup>a</sup> Order in Council V of 2008; amended by No. VI of 2008; No. XXVII of 2008; and No. XIV of 2010.

**Berthing, mooring and anchoring of vessels.**

3. Except with the permission of the Harbourmaster, the master of a vessel shall not cause or permit the vessel –

- (a) to be berthed alongside the jetty of La Maseline Harbour or the breakwater or pier of Le Creux Harbour for longer than is necessary to enable any person to embark or disembark;
- (b) to be moored or anchored –
  - (i) within 300 feet of the jetty of La Maseline Harbour,
  - (ii) within Le Creux Harbour, where no anchors with double flukes shall be used, or
  - (iii) within the approaches of Le Creux Harbour unless a the Committee has granted an application under section 4 for permission to place a mooring there; or
- (c) if it is a vessel licensed to carry more than twelve passengers, to use the Goulet Passage southbound.

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

4. (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,
- (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.

### **Appeals.**

5. (1) Any person aggrieved by any decision of the Committee to refuse an application under section 4(1), or to impose a condition or conditions when granting such an application, may appeal therefrom to 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 President 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.

**Power to remove moorings.**

6. The Harbourmaster may remove, or cause to be removed, a mooring placed in the Controlled Zone without the permission of the Committee under section 4, in contravention of section 2.

**Power to remove vessels.**

7. The Harbourmaster may cause a vessel berthed, moored or anchored in contravention of section 3(a) or (b) to be removed to and anchored, moored or berthed in such place and in such manner as he thinks fit.

**Recovery of expenses.**

8. (1) The Committee may recover from the owner of any vessel as a simple contract debt –

- (a) the amount of any expenses reasonably incurred by it and arising out of the exercise by the Harbourmaster, in relation to that vessel, of any of the powers conferred on him by this Ordinance, and
- (b) any other charges or expenses which it considers have been reasonably incurred in relation to the maintenance or upkeep of that vessel, including, for the avoidance of doubt and without limitation, any charges or expenses relating to storage of the vessel, use of dinghy racks, or the use of electricity or other services when carrying out any work on the vessel.

(2) The Committee may recover from the owner of a mooring

removed under section 6 as a simple contract debt the amount of any expenses reasonably incurred by it arising, directly or indirectly, out of that removal.

**Licensing of passenger vessels.**

9. (1) Vessels in respect of which a person is plying for hire in Sark to carry not more than 12 fare-paying passengers in Sark waters shall be licensed.

(2) Licences shall be granted by the Court on the recommendation of the Committee.

(3) Licences (whenever granted) shall expire on the 31<sup>st</sup> March each year unless the Court specifies otherwise.

(4) Applications for licences shall be made to the Constable at least 14 days before it is intended to use the vessel to carry fare-paying passengers.

(5) The Committee is the surveying authority and shall specify the maximum number of passengers which each vessel may carry (which number shall be a condition of the licence).

(6) The Committee, before making a recommendation under subsection (2), or specifying the maximum number of passengers under subsection (5), shall be satisfied as to -

- (a) the qualifications of the person who will handle the vessel,
- (b) the condition of the vessel, its engine and equipment, and

- (c) the insurance provisions relating to that vessel and, in particular, whether there is any third party insurance,

and in this respect may take advice from appropriately qualified persons if it sees fit to do so.

(7) The licence fee shall be £2 per fare-paying passenger, or such other sum as Chief Pleas by resolution may appoint.

(8) A licence under this section -

- (a) may be varied by the Court from time to time, on the recommendation of the Committee; and

- (b) may be revoked or suspended by the Court, on the recommendation of the Committee if this appears to the Court -

- (i) to be necessary or expedient for regulating the licensing of passenger vessels, or

- (ii) to be appropriate in a case where there is an offence under this Ordinance.

(9) If a licence is varied, revoked or suspended, the Committee may, if it considers it appropriate in all the circumstances of the case, refund the whole or any part of any charge made for the licence.

### **Powers of Committee**

**10.** In order to perform any of the powers conferred on it by this Ordinance or to be satisfied of any matters specified under this Ordinance, the Committee may –

- (a) require the owner of a vessel named in a licence or using a mooring in the Controlled Zone to provide the Committee with such information, in such form, as it may direct,
- (b) require the attendance of the owner, master or charterer on board the boat and may make any reasonable examination and inquiry which appears to it to be necessary.

### **Offences.**

**11.** (1) A person who –

- (a) contravenes section 2,
- (b) contravenes section 3,
- (c) moors his boat at a mooring without permission having been granted to place that mooring by the Committee under section 4,
- (d) contravenes or fails to comply with or observe any condition of a permission granted under section 4,
- (e) in Le Creux Harbour uses, or causes or permits the use of, an anchor with double flukes,

- (f) being the owner or master of a vessel required to be licensed under section 9(1) but not so licensed, carries, or causes or permits to be carried, in Sark waters fare-paying passengers in that vessel,
- (g) contravenes or fails to comply with or observe any term or condition of a licence under section 9,
- (h) 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), or
- (i) moors a vessel of more than 16 feet in overall length at a mooring in Le Creux Harbour

is guilty of an offence and liable, on conviction by the Court, to a fine not exceeding level 2 on the uniform scale for the time being in force under the Uniform Scale of Fines (Sark) Law, 1989 (as amended)<sup>b</sup>.

(2) It shall be a defence for a person charged with an offence under subsection 1(c) 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.

**Interpretation.**

**12.** In this Ordinance –

"Committee" means the Sark Chief Pleas Harbours and

---

<sup>b</sup> Ordres en Conseil Vol. XXXI, p. 320, as amended by the Uniform Scale of Fines (Sark) Amendment Ordinances, 1992, 2004 and 2006.

Pilotage Committee;

"**Constable**" includes the Vingtenier;

"**Controlled Zone**" has the meaning given in section 2;

"**Court**" means the Court of the Seneschal;

"**Harbourmaster**", in sections 3, 6 and 7, includes any person appointed or authorised by him to act for the purposes of those sections;

"**master**" means the person having for the time being the command or charge of a vessel;

"**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;

"**owner**" includes a charterer and an agent;

"**Sark waters**" means the territorial waters adjacent to Sark, Brecqhou and L'Etac;

"**the approaches of Le Creux Harbour**" means the area lying to the west of a line 300 feet long drawn due south from the easternmost extremity of Le Creux Harbour;

"vessel" means anything made or used for the conveyance by water of people or property, but does not include a vessel engaged in search and rescue, a vessel being used as a marine ambulance or lifeboat, a vessel being used by the States of Guernsey for sea fisheries protection purposes, or a vessel being used by the organisation known or referred to as "the States of Guernsey Customs and Excise and Immigration and Nationality Service" for law enforcement purposes.

**Repeal.**

13. The Harbours (Sark) Ordinance, 1987 (as amended)<sup>c</sup> is repealed.

**Citation and Commencement.**

14. This Ordinance may be cited as the Harbours (Sark) Ordinance, 2011, and shall come into force on the 5<sup>th</sup> day of May, 2011.

---

<sup>c</sup> Amended by the Harbours (Sark) (Amendment) Ordinance, 2007 and the Harbours (Sark) (Amendment) Ordinance, 2010.

SCHEDULE

This is the excerpt from Chart 808 that comprises the Schedule

to the Ordinance.

*[Signature]*  
For the  
Law Officers.

