

PROJET DE LOI

ENTITLED

The Reform (Sark) Law, 2008^a

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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^a Order in Council No. V of 2008; as amended by Orders in Council No. VI of 2008 (the Real Property (Transfer Tax, Charging and Related Provisions) (Sark) Law, 2007); No. XXVII of 2008 (the Reform (Sark) (Amendment) Law, 2008); No. XIV of 2010 (Reform (Sark) (Amendment) Law, 2010); No. XII of 2011 (the Reform (Sark) (Amendment) (No.2) Law, 2010). The Law was commenced in three parts by the Reform (Sark) (Amendment) (No.2) Law, 2010 (Commencement) Ordinance, 2012, with effect from the 18th April, 2012, the Reform (Sark) (Amendment) (No.2) Law, 2010 (Commencement No.2) Ordinance, 2012, with effect from the 3rd September, 2012, and the Reform (Sark) (Amendment) (No.2) Law, 2010 (Commencement No.3) Ordinance, 2012, with effect from the 27th February, 2013.

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The Reform (Sark) Law, 2008

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the 20th day of June, 2002, the 2nd day of July, 2002, the 2nd day of October, 2002, the 30th day of April, 2003, the 14th day of May, 2003, the 8th day of July, 2004, the 24th day of November 2004, the 19th day of January 2005, the 24th day of February 2005, the 8th day of March 2006, the 19th day of April 2006, the 4th day of October 2006, the 16th day of January, 2008 and the 21st day of February 2008, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in Sark.

PART I

GENERAL, CONSTITUTIONAL, PROVISIONS

Legislative and executive functions.

1. All legislative and executive functions which may be exercised within Sark are exercisable by the Chief Pleas constituted in accordance with Part III or, in the case of a function imposed or conferred by an enactment or by a resolution, by the committee of the Chief Pleas or other body on which, or by the person on whom, the function is so imposed or conferred.

Judicial functions.

2. All judicial functions which may be exercised within Sark are exercisable, except to the extent that any enactment otherwise provides, by the Court of the Seneschal constituted in accordance with Part II.

Public office, oaths and affirmations.

3. (1) The holding of public office in Sark is open to any person who is not an alien within the meaning of the law in force in the United Kingdom; regardless of sex, marriage, religion or property.

(2) Without prejudice to the generality of subsection (1), a person who conscientiously objects to taking an oath required by law may make a solemn affirmation to the same effect as the required oath; and the same consequences shall attach to that affirmation as attach to the required oath.

The prerogative, laws and customs and public functions.

4. (1) Her Majesty's prerogative is unaffected by this Law.

(2) Except to the extent that their continued existence or exercise would be inconsistent with this Law, this Law does not affect -

(a) any of the laws or customs of Sark; or

(b) the powers, rights or duties of a person exercising public functions in relation to Sark.

(3) It is hereby declared for the avoidance of doubt that the customary law in criminal matters is the same in Sark as in Guernsey.

PART II
THE COURT OF THE SENESCHAL

Composition of the Court

Constitution of the Court.

5. The Court of the Seneschal shall be the sole court of justice in Sark and shall be constituted by the Seneschal sitting alone.

Appointments Committee.

5A. (1) The Seigneur shall from time to time appoint a committee ("the Appointments Committee") for the purposes of appointing the Seneschal and Deputy Seneschal.

(2) No person who is a Conseiller may be a member of the Appointments Committee.

(3) The Appointments Committee shall comprise two members in addition to the Seigneur, who shall be the chairman of that Committee.

Seneschal.

6. (1) The Seneschal, who -
- (a) shall be a person of full age and ordinarily resident in Sark, and
 - (b) shall not be a Conseiller, nor the holder of any of the offices mentioned in sections 49 to 55,

shall be appointed by the Appointments Committee, with the approval of the

Lieutenant Governor.

(2) The Seneschal shall retire from office upon attaining the age of 65 but he may be reappointed by the Appointments Committee for a period or periods not exceeding five years at any one time provided that any such further term of office shall end not later than the date on which he attains the age of 75.

(3) The Seneschal shall not be removable from office prior to his retirement in accordance with subsection (2) except at his own request in writing addressed to the Seigneur or, for good cause, by the direction of the Lieutenant Governor upon the recommendation of the Seigneur.

(4) The other terms and conditions of the office of Seneschal, including the payment of remuneration out of public funds, shall be determined by the Chief Pleas upon the recommendation of the General Purposes and Advisory Committee in consultation with the Finance and Commerce Committee.

Deputy Seneschal.

7. (1) The Appointments Committee may, from time to time, after consultation with the Seneschal, and with the approval of the Lieutenant Governor, appoint a person who satisfies the conditions in section 6(1)(a) and (b) to be the Deputy Seneschal.

(2) The Deputy Seneschal shall –

- (a) perform all the duties and exercise all the powers of the Seneschal in and in connection with the Court;
- (b) perform all the duties and exercise all the powers of the Seneschal in connection with the election of the

President of the Chief Pleas under section 22A; and

- (c) perform all such other duties and exercise all such other powers, including (without limitation) the endorsement of warrants issued outside Sark, as are required by law for the time being in force to be performed or exercised by the Seneschal,

if the Seneschal shall, for any reason, be unable to act, or in the absence or incapacity of the Seneschal, and during a vacancy in the office of Seneschal.

(3) The provisions of section 6(2), (3) and (4) apply to the office of Deputy Seneschal as they apply to the office of Seneschal.

(4) *Repealed*

(5) *Repealed*

Lieutenant Seneschals.

8. (1) The Lieutenant Governor may, after consultation with the Seneschal and the Bailiff, appoint one or more Lieutenant Seneschals who shall be -

- (a) an Advocate of the Royal Court,
- (b) a member of the Bar of England and Wales, or the Bar of Northern Ireland or the Faculty of Advocates in Scotland, or
- (c) a Solicitor of the Senior Courts of England and Wales, or of the Court of Judicature of Northern Ireland, or in

Scotland,

of not less than ten years' standing.

(2) A person appointed as a Lieutenant Seneschal shall not be removable from office except at his own request in writing addressed to the Seneschal or, for good cause, by the direction of the Lieutenant Governor.

(3) A Lieutenant Seneschal may perform all the duties and exercise all the powers of the Seneschal in and in connection with the Court when requested by the Seneschal so to do in any proceedings.

(4) Where a Lieutenant Seneschal is presiding over any proceedings of the Court pursuant to subsection (3), those proceedings may, where it appears to the Seneschal that it would be expedient so to do, be heard by the Court sitting in the Island of Guernsey.

(5) The terms and conditions of the office of Lieutenant Seneschal, including the payment of remuneration out of public funds, shall be determined by the Chief Pleas upon the recommendation of the General Purposes and Advisory Committee in consultation with the Finance and Commerce Committee.

Oaths.

9. (1) Subject to section 3(2), before entering on his office, a person appointed as the Seneschal shall take the oath of office before the Royal Court in such form as may be prescribed by Ordinance, and shall not be required to take an oath in any other form.

(2) Subject to section 3(2), before entering on his office, a person appointed as the Deputy Seneschal or as a Lieutenant Seneschal shall take the oath

of office before the Court of the Seneschal or, in the case of a Lieutenant Seneschal, before the Royal Court, in such form as may be prescribed by Ordinance, and shall not be required to take an oath in any other form.

Jurisdiction of the Court

Extent of civil jurisdiction.

10. (1) The civil jurisdiction of the Court comprises all matters other than criminal matters -

- (a) in respect of which the Court had jurisdiction immediately before the commencement of this section;
- (b) which are assigned to it by this Law or by any other enactment;

and in this Law any such matter is referred to as "a civil matter".

(2) The jurisdiction of the Court in a civil matter is not limited by reference to any question of value.

Extent of criminal jurisdiction.

11. (1) The Court has jurisdiction, subject to subsection (2), in all criminal matters in which the Court had jurisdiction before the commencement of this section.

(2) The Court has jurisdiction to impose as respects any offence which the Court is competent to try a fine not exceeding level 4 on the Sark uniform scale, or a term of imprisonment not exceeding 1 month, or both such fine and such term of imprisonment, or such term of imprisonment in default of payment of a

fine:

Provided that the aggregate of the sentences which may be imposed on the same occasion on a person found guilty of more than one offence shall not exceed the sum of twice the amount of level 4 on the Sark uniform scale in fines or a period of 2 months' imprisonment or both such fine and such imprisonment.

(3) Where the Court imposes a term of imprisonment in excess of three days the Court shall order that the part of the said term in excess of three days shall be served in Guernsey and that, subject to delay caused by lack of transport or stress of weather, the convicted person concerned shall, before the expiration of the said period of three days, be transferred to Guernsey to serve the remainder of the said term of imprisonment in the States of Guernsey Prison in accordance with arrangements made with the States of Guernsey.

(4) If the Court is of the opinion that an offence with which a person is charged, or the punishment appropriate to it, is beyond the competence of the Court, it shall transfer that case to the Royal Court sitting as an Ordinary Court with a view to its being dealt with in accordance with Part IV of the Magistrate's Court (Guernsey) Law, 1954, as amended^b.

Licences for sale of intoxicating liquor and tobacco.

12. (1) The Court shall be the authority for granting licences for the sale of intoxicating liquors and tobacco products.

(2) The fees for such licences shall be fixed by the Chief Pleas and shall be paid to the Chief Pleas and shall be applied towards expenditure for

^b Ordres en Conseil, Vol. XVI, p. 103; Vol. XXX, p. 224.

public purposes in Sark.

Contempt.

13. (1) The Court has jurisdiction under this section to deal with any person who -

- (a) wilfully insults the Seneschal, any officer of the Court, any advocate having business in the Court or any witness, during their attendance in court or while going to or returning from the Court; or
- (b) wilfully interrupts the proceedings of the Court or otherwise misbehaves in or in the precincts of the Court.

(2) In any such case as is mentioned in subsection (1) the Court may order an officer of the Court or the Constable to take the offender into custody and detain him until the rising of the Court; and the Court may, if it thinks fit, commit the offender to custody for a specified period not exceeding 1 month or impose on him a fine not exceeding level 5 on the Sark uniform scale, or both.

(3) It is hereby declared for the avoidance of doubt that this section is in addition to, and shall not be construed as in any way derogating from, any other power of the Court to deal with cases of contempt.

Procedure, costs, interest and appeals

Institution of criminal proceedings.

14. Criminal proceedings before the Court may be instituted only by or under the authority of Her Majesty's Procureur.

Power of Court to make rules of procedure, etc.

15. The Court may, from time to time, make rules, which shall not come into force unless and until approved by the Royal Court, regulating and prescribing-

- (a) the procedure, including the method of pleading, and the practice to be followed in the Court in all proceedings;
- (b) the means by which particular facts may be proved and the method by which evidence may be given in or in connection with any proceedings;
- (c) any other matters incidental to or relating to -
 - (i) any such procedure and practice; or
 - (ii) the administration of the Court or of the Court records.

Court records, execution and enforcement of judgments.

16. (1) It shall be the duty of the Greffier to maintain Court records and generally to act as Clerk of the Court.

(2) It shall be the duty of the Prévôt to execute and enforce the judgements of the Court, to collect all fines imposed by the Court and all fines, fees and charges payable to the Court and all monies so received by the Prévôt shall be paid over by him to the Chief Pleas and shall be applied towards expenditure for public purposes in Sark.

Expenses and accounts.

17. (1) All necessary expenses of administering justice in Sark certified by the Greffier to have been incurred, shall be defrayed by the Treasurer out of the revenues of Chief Pleas, without the necessity for an order or vote or resolution of the Chief Pleas.

(2) The Treasurer shall, when he submits to Chief Pleas the audited accounts referred to in section 63, submit with them a statement or a summary of a statement of the moneys received by him under section 16(2) and the expenditure defrayed by him under this section during the previous financial year.

Power of Court as to costs of proceedings.

18. (1) The costs of and incidental to all proceedings shall be in the discretion of the Court, and the Court shall have power to determine by whom (including a person not a party to the proceedings) and to what extent the costs are to be paid.

(2) The Court may, from time to time, make rules, which shall not come into force unless and until approved by the Royal Court, regulating and prescribing -

- (a) the fees payable to the Court and to the officers of the Court in respect of proceedings and any ministerial act or function of the Court or of the officers of the Court;
- (b) the costs payable to, or recoverable by, the Chief Pleas in respect of making a recording of any proceedings and in providing to any party a transcription of any proceedings, or in respect of

providing any other facility in connection with any proceedings;

- (c) the fees and expenses recoverable by a party in any proceedings where costs are awarded to that party under subsection (1).

(3) The Court may order the parties to any proceedings, or any of them, to furnish such security for the costs incurred or to be incurred by the Chief Pleas pursuant to subsection (2)(b).

(4) In subsections (1) and (2)(c), "costs" includes -

- (a) allowances payable to a person attending to give evidence;
- (b) expenses properly and reasonably incurred by a party to proceedings;
- (c) such other expenses as the Court may by Order prescribe.

(5) Rules made under subsection (2) may include provision for any consequential, incidental, supplementary and transitional matters.

Appeals to the Royal Court.

19. There shall be a right of appeal from the Court in criminal matters to the Royal Court sitting as a Full Court and in civil matters to the Royal Court sitting as an Ordinary Court.

PART III
THE CHIEF PLEAS OF SARK

The Chief Pleas

Status of the Chief Pleas and liability of members.

20. (1) The Chief Pleas is a body with legal personality distinct from that of its members, which shall have perpetual succession in the collective persons of its members for the time being.

(2) The Chief Pleas shall have power to own property and rights of all types and descriptions and to enter into transactions and arrangements with respect to any such property and rights, and to exercise and be subject to all the incidents and obligations of ownership.

(3) No personal liability shall accrue against a member of the Chief Pleas who acts, or who purports to act, on behalf of the Chief Pleas provided that such member is acting in good faith and with the authority of the Chief Pleas.

Composition of the Chief Pleas.

21. (1) The Chief Pleas shall, with effect from such date as the Chief Pleas by Ordinance shall appoint, be composed of the following members –

- (a) the Seigneur;
- (b) the President, elected in accordance with section 22A;
and
- (c) twenty-eight Conseillers, elected in accordance with this Law.

(2) It shall be the duty of the Greffier, as Clerk to the Chief Pleas, and of the Prévôt and the Treasurer, to attend meetings of the Chief Pleas, but they shall not, by virtue of their respective offices or otherwise, be members thereof.

(3) Notwithstanding the provisions of subsection (2), the Chief Pleas shall not be deemed to be inquorate by virtue only of the absence of the Prévôt or the Treasurer.

(4) The Chief Pleas shall not be deemed incompetent to perform any of the functions or exercise any of the powers conferred upon them by or under this Law or any other enactment by reason only of the existence at any time of a vacancy among the members.

(5) The Chief Pleas may, by Ordinance, from time to time vary the number of Conseillers specified in subsection (1)(c).

Deputy Seigneur.

22. (1) The Seigneur may by writing, from time to time, appoint a Deputy Seigneur.

(2) The Seigneur shall not appoint a person as Deputy Seigneur unless that person is of full age and is—

(a) ordinarily resident in Sark; or

(b) the issue of the Seigneur.

(3) The Seigneur shall not appoint a person as Deputy Seigneur if

that person is for the time being the Seneschal, the Prévôt, the Greffier, the Treasurer, or the duly appointed deputy of any of those persons, or a Conseiller.

(4) The Seigneur may by writing at any time revoke the appointment of any person as Deputy Seigneur.

(5) The Deputy Seigneur may perform all the duties and exercise all the powers of the Seigneur in and in connection with the Chief Pleas (including, for the avoidance of doubt and without limitation, his powers of appointment under this Law) in the absence or incapacity of the Seigneur, or if the Seigneur shall be unable for any reason to act, except that the Deputy Seigneur shall not perform any of the duties or exercise any of the powers of the Seigneur in his capacity as one of the Trustees within the meaning of section 56(1).

President of the Chief Pleas.

22A. (1) Subject to subsection (11), the President of the Chief Pleas ("the President") shall be appointed for a four-year term of office by resolution of the Chief Pleas.

(2) The Seneschal shall preside over the Chief Pleas for the purpose only of the election.

(3) A person shall be eligible for election as President if he is not the Seigneur or the Seneschal and he fulfils the conditions for eligibility for election as a Conseiller set out in paragraphs (a) and (b) of section 28(3).

(4) Should a person who is elected as the President be a Conseiller or the holder of any of the offices mentioned in sections 49 to 55, his resignation as Conseiller, or from such office, as the case may be, shall be deemed to take effect immediately upon his election.

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(5) The first election for the office of President shall take place on a date to be appointed by Ordinance; and subsequent elections, except for any held under subsection (10), shall be held in every fourth year thereafter, in each case on a date to be appointed by Ordinance.

(6) The Chief Pleas shall by Ordinance make provision for the procedure to be followed at any election for the office of President including, without limitation -

- (a) prescribing the form and manner in which a nomination is to be made,
- (b) prescribing the manner in which the voting is to be counted,
- (c) the procedure to be followed where there is only one candidate at such an election, and
- (d) the procedure to be followed where there is an equality of votes for two or more candidates at such an election.

(7) The President shall be required to vacate his office before the expiration of his term of office if -

- (a) he ceases to possess the qualifications required by subsection (3) for eligibility for election as the President; or

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(b) a vote of no confidence in him is passed by the Chief Pleas.

(8) It is hereby declared for the avoidance of doubt that no act of a person as the President shall be deemed to be, or ever to have been, invalid by reason only of -

(a) any lack of qualification on his part to be elected in accordance with subsection (3), or

(b) the existence of any circumstances requiring him to vacate his office in accordance with this section.

(9) Notwithstanding any other provision of this Law, the President may at any time resign his office by letter addressed to the Lieutenant Governor.

(10) Should the office of President fall vacant, an election to fill the vacancy shall be held at a meeting of the Chief Pleas within thirty days of the vacancy arising.

(11) A President elected at an election held under subsection (10) shall hold office until the term when that term of office would have expired had it not become vacant.

(12) Subject to section 3(2), before entering on his office, a person appointed as the President shall take the oath of office before the Court of the Seneschal, in such form as may be prescribed by Ordinance, and shall not be required to take an oath in any other form.

(13) At the expiration of his term of office, but not otherwise, the President shall be eligible for re-election in accordance with the provisions of this section.

Elections of Conseillers

Times of election and tenure of office.

23. (1) The Chief Pleas shall, as soon as reasonably practicable after the commencement of this Law, by Ordinance -

- (a) appoint a day on which there shall be held a first general election for the purpose of electing twenty-eight Conseillers ("the first-elected Conseillers"), and
- (b) appoint a day, in January 2009, on which the first-elected Conseillers shall, subject to the provisions of this Law, take office.

(2) With effect from midnight on the day preceding the day appointed for the purposes of subsection (1)(b), the terms of office of those persons who are, at that time, pursuant to the Reform (Sark) Law, 1951, as amended^c, members of the Chief Pleas as Tenants or as Deputies of the People, shall expire.

(3) The first-elected Conseillers shall hold office for such period determined in respect of each of them in accordance with subsections (4) to (6).

(4) Of the first-elected Conseillers, subject to the provisions of this Law -

^c Ordres en Conseil, Vol. XV, p. 215; Vol. XXIII, p. 200; Vol. XXVII, p. 385; Vol. XXIX, p. 352; and No. XI of 2000.

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- (a) fourteen shall hold office until such day, during January 2013, as the Chief Pleas may by Ordinance appoint, and
- (b) fourteen shall hold office until such day, during January 2011, as the Chief Pleas may by Ordinance appoint.

(5) Where, due to an insufficient number of candidates, the number of first-elected Conseillers is less than twenty eight, fourteen Conseillers shall hold office in accordance with subsection (4)(a) and the remainder shall hold office in accordance with subsection (4)(b); and any Conseillers elected as first-elected Conseillers at a further election held under section 25(3) shall also hold office in accordance with subsection (4)(b).

(6) The respective terms of office of each first-elected Conseiller under subsection (4)(a) shall be determined by lots drawn by the elected Candidates under the supervision of the returning officer immediately after the returning officer has declared which Candidates have been elected pursuant to section 25(1) or (3).

(7) Subsequent general elections shall be held on such day in every second year as the Chief Pleas shall by Ordinance appoint, for the purpose of electing Conseillers to replace those whose terms of office are due to expire; and the Conseillers elected at each such general election shall hold office, subject to the provisions of this Law, until such date, in the month of January 4 years after the commencement of their term of office, as the Chief Pleas may in each case by Ordinance appoint.

(8) Subject to subsections (9) and (10), upon the occurrence of a

casual vacancy amongst the Conseillers which results in the number of such vacancies amounting to two or more, the Chief Pleas -

- (a) may, in the event that there are two such vacancies,
and
- (b) shall, in the event that there are three or more such
vacancies,

by Ordinance appoint a day on which there shall be held a by-election to elect such number of Conseillers as is necessary to replace the Conseillers whose offices have become vacant; and in the case of an election held pursuant to paragraph (b), such day shall be not later than six months after the occurrence of the vacancy giving rise to the election.

(9) Where a casual vacancy giving rise to an election under subsection (8)(b) occurs after 30th June in any year in which a general election is to be held pursuant to subsection (7), it shall be in the discretion of the President whether or not a by-election shall be held to fill the vacant offices before that general election.

(10) A Conseiller elected at a by-election shall, subject to the provisions of this Law, hold office until the date when that term of office would have expired had it not been vacant; and where more than one Conseiller is so elected, and the periods of office remaining are different, the period of office to be served by each elected Candidate shall be determined by lots drawn by the elected Candidates under the supervision of the returning officer immediately after the declaration of the result of the by-election.

(11) Where, at the date of publication of nominations prior to a

general election, there exist any vacancies amongst the Conseillers, such vacancies shall be added to the number of vacancies available to be filled at that election; and in such a case, the period of office to be served by each elected Candidate shall be determined in accordance with section 25(2).

Returning officer.

24. (1) Subject to subsection (2), the President shall be ex officio the returning officer for the purposes of elections, other than the election of the President, held under this Law.

(2) Should the President be unable or unwilling to act as returning officer in respect of any election, the Greffier or, should he be so unable or unwilling, the Deputy Greffier, shall be ex officio the returning officer in respect of that election.

(3) The returning officer shall do all things necessary for effectually conducting the election in accordance with the law as to elections in Sark.

(4) A person is not subject to any incapacity to vote at an election by reason only of his being the returning officer at that election.

Result of election and equality of votes.

25. (1) At a general election or a by-election, the returning officer shall, subject to subsection (3), declare to be elected as Conseillers the candidates who have received the largest number of votes, up to the number of vacancies to be filled.

(2) Where, at a general election, there are one or more existing vacancies to be filled pursuant to section 23(11), the successful candidates who

receive the largest number of votes shall be declared elected to replace those Conseillers whose terms of office are due to expire, and the existing vacancies shall be filled by the remaining successful candidates; and if, at such an election, there is an equal number of votes for two or more successful candidates such that their respective terms of office cannot otherwise be determined, those respective terms of office shall be determined by lots drawn by the relevant candidates under the supervision of the returning officer immediately after the declaration of the result of the election.

(3) If at any election, the number of candidates is not greater than the number of vacancies to be filled, the returning officer shall, after the time fixed for the making of nominations has expired, declare to be elected each candidate who has consented to a nomination and, where, at a general election, there is an insufficient number of candidates, a further election shall be held on such date, as soon as may be after the original election, as shall be appointed by Ordinance, which further election shall, for the purposes of the term of office of any successful candidate, be deemed to have been held on the date of the original election.

(4) Where, notwithstanding a further election held pursuant to subsection (3), there remains a vacancy among the Conseillers, a by-election may be held, on such date before the next general election as the Chief Pleas may by Ordinance appoint, for the purpose of filling such vacancy until the next general election.

(5) If at any election there is an equal number of votes for two or more candidates, and the addition of one vote to his poll would have entitled any such candidate to be declared elected, a further election shall be held on a day appointed by Ordinance for that purpose, in respect of such candidates only and without further nomination, which further election shall, for the purposes of the term of office of any successful candidate, be deemed to have been held on the date

of the original election.

Ordinances and absent voters.

26. (1) The Chief Pleas may from time to time by Ordinance -
- (a) prescribe the place at which, and the hours during which, polling is to take place;
 - (b) regulate the polling and counting of votes at any election, and confer powers on the returning officer to regulate the polling at any election;
 - (c) prescribe the time at which, and the form and manner in which, a nomination is to be made, and the manner of signifying consent to a nomination;
 - (d) prescribe the form of the register to be prepared under section 29 and make provision as to the manner of its publication;
 - (e) prescribe the manner in which a person may apply to have his name inscribed in the Register of Electors prepared under section 29 and, subject to section 29(3), the manner in which a person may object to the inclusion or correction of a name or other entry in that register or to the exclusion of a name from that register;
 - (f) make provision for, and regulate, postal voting by absent voters and the casting of votes by proxy;

(g) provide that a contravention of any such Ordinance is to be an offence punishable, on conviction, by a fine not exceeding a specified sum of level 4 on the Sark uniform scale;

(h) regulate generally the conduct of elections in Sark.

(2) Section 40 applies in relation to an Ordinance made under this section as it applies in relation to an Ordinance made under section 37.

(3) For the purposes of subsection (1)(f), "absent voter" means a person who, as respects any election –

(a) is blind;

(b) will be out of Sark at the time of that election;

(c) is suffering from a physical defect or disability by reason of which he is incapable of attending at the place at which the polling at that election is to take place; or

(d) is otherwise an absent voter within the meaning of an Ordinance made by Chief Pleas pursuant to this section.

Offences.

27. (1) Any person who -

Consolidated text

- (a) votes more than once at an election, whether in person, by post, or both in person and by post; or
- (b) makes an application or declaration under the law as to elections in Sark which he knows to be false,

shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Sark uniform scale.

(2) An election shall not be invalidated by reason of the fact that a person has been convicted of an offence under this section in relation to that election.

Franchise and registration of electors

Franchise and inclusion in Register of Electors.

28. (1) A person is entitled to vote at an election for the office of Conseiller if on the date appointed for that election -

- (a) he has attained the age of 18 years; and
- (b) he is entitled to have his name inscribed, and his name is so inscribed, in the Register of Electors, prepared pursuant to section 29, in force on that date.

(2) *Repealed*

(3) A person is eligible to be elected as Conseiller if -

- (a) he is entitled under subsection (1) to vote at that

election; and

- (b) he is not an alien within the meaning of the law in force in the United Kingdom; and
- (c) he is not the Seigneur, the Seneschal, the Prévôt, the Greffier, the Treasurer, or the duly appointed deputy of any of those persons; and
- (d) he has been nominated and has signified his consent to nomination in the form and manner prescribed by an Ordinance of the Chief Pleas made under section 26.

(4) A person is entitled to have his name inscribed in the Register of Electors if

- (a) he is of the age of 17 years or over, provided that a person shall not vote at any election before he attains the age of 18 years; and
- (b) he is ordinarily resident in Sark; and
- (c) he will have been ordinarily resident in Sark throughout the 24 months immediately preceding his application for his name to be so inscribed; and
- (d) he is not (age apart) subject to any legal disability; and
- (e) he has applied to have his name so inscribed and has complied with such provisions in that regard as are prescribed by any Ordinance made by the Chief Pleas

under section 26.

(5) *Repealed*

Register of Electors, amendments and challenges.

29. (1) The Greffier shall compile and maintain a register containing the names and addresses of all persons entitled to have their names inscribed in that register, which register shall be the Register of Electors.

(2) The Register of Electors in force shall be open for public inspection at the Greffe Office during normal office hours.

(3) No challenge shall be made to a decision of the Greffier concerning the inclusion or correction of a name in the Register of Electors or the exclusion of a name from the Register of Electors unless made by petition to the Court of the Seneschal within 28 days after the date of such decision; and if upon hearing such a petition the Court so directs, the Greffier shall forthwith amend the Register of Electors.

(4) The Register of Electors shall be conclusive evidence that the persons whose names are inscribed therein, and only those persons, are entitled to have their names inscribed therein; and, without prejudice to the generality of the foregoing, an election shall not be invalidated by reason of the inclusion or correction of a name in the Register of Electors or the exclusion of a name from the Register of Electors, whether or not that inclusion, correction or exclusion has been or is challenged under subsection (3).

(5) For the avoidance of doubt, the duty of the Greffier under subsection (1) to maintain the Register of Electors shall (without limitation) include a duty to remove from that register the name of any person who is no longer

entitled to have his name inscribed in that register.

(6) Notwithstanding the provisions of this section, the Register of Electors shall be closed on such date, prior to a general election or by-election, as the Chief Pleas may by Ordinance appoint, and, during the period beginning on the date of closure and ending on the date of the election, no entry in the Register shall be made or amended except as a result of a challenge to a decision of the Greffier under subsection (3).

Conseillers

Oaths of allegiance and of office.

30. (1) Subject to section 3(2), before entering office, each Conseiller shall take before the Court of the Seneschal an oath of allegiance and an oath of office in such form as may be prescribed by Ordinance.

(2) Subsection (1) requires an oath of allegiance and an oath of office to be taken by a Conseiller after each occasion on which he is elected, notwithstanding that he may previously have held that office.

Vacation and resignation of office.

31. (1) A Conseiller shall become disqualified and shall be required to vacate his office if he -

- (a) ceases to possess the qualifications required by section 28(3) for eligibility for election as a Conseiller; or
- (b) has failed to attend three consecutive ordinary meetings of the Chief Pleas.

Consolidated text

(2) If to the knowledge of the Greffier a Conseiller has become disqualified, or if it appears to the Greffier that a Conseiller did not at the time of his election possess the qualifications required by section 28(3) for eligibility for election, the Greffier shall so report to the President who shall, if satisfied that such is the case, declare the office of that Conseiller to be vacant, and no such declaration shall be challenged otherwise than by an appeal made to the Court of the Seneschal, within 1 month of the making of the declaration.

(2A) A person aggrieved by a decision of the Court of the Seneschal under subsection (2) may further appeal on a point of law to the Royal Court sitting as an Ordinary Court, whose decision shall be final.

(3) It is hereby declared for the avoidance of doubt that no act of a person as a Conseiller shall be deemed to be, or ever to have been, invalid by reason only of -

(a) any lack of qualification on his part to be elected in accordance with section 28(3);

(b) the existence of any circumstances requiring him to vacate his office in accordance with this section.

(4) Notwithstanding any other provision of this Law, a Conseiller may at any time resign his office by a letter addressed to the President.

Meetings of the Chief Pleas

Ordinary and extraordinary meetings.

32. (1) Every meeting of the Chief Pleas, except for a meeting convened for the purpose of electing the President, shall be convened by the

President by the publication of an Agenda giving notice of the business to be transacted at that meeting, and a decision shall not be effective as a resolution of the Chief Pleas unless it is a decision taken at a meeting of the Chief Pleas in accordance with this Law.

(1A) During a vacancy in the office of President, or if the President shall, for any reason, be unable or unwilling to act, or in the absence or incapacity of the President, the functions of the President under subsection (1) may be exercised by the Seigneur.

(2) The Chief Pleas shall meet in each calendar year on the first Wednesday after the 15th day of January ("the Christmas meeting"), the second Wednesday after Easter ("the Easter meeting"), the second Wednesday after the 24th day of June ("the Midsummer meeting"), and the first Wednesday after Michaelmas ("the Michaelmas meeting"), which meetings shall be called "ordinary meetings"; and shall in addition meet -

- (a) whenever they are so directed by the Lieutenant Governor;
- (b) whenever they are summoned by the President, with the consent of the Seigneur; and
- (c) with the consent of the President, whenever requested in writing so to do by at least nine Conseillers,

which meetings shall be called "extraordinary meetings".

Privilege.

33. (1) For the avoidance of doubt, any statement made by a member

of the Chief Pleas in the course of the proceedings of a meeting of the Chief Pleas shall, for the purposes of the laws of defamation, enjoy absolute privilege, and no proceedings in defamation shall be maintainable in respect of any statement so made.

(2) A person who, with the express authority of the Chief Pleas, publishes a fair and accurate account of any proceedings of a meeting of the Chief Pleas, shall, for the purposes of the law of defamation, enjoy qualified privilege; and no proceedings in defamation shall be maintainable in respect of any such publication unless the publication is shown to be made with malice.

Public attendance at meetings of the Chief Pleas.

34. (1) Subject to subsection (2), all meetings of the Chief Pleas convened pursuant to section 32 shall be open to the public.

(2) The Chief Pleas, by a majority vote of two-thirds of Conseillers present at a meeting thereof, may resolve that a matter be debated by the Chief Pleas in camera, and the President shall thereupon order all members of the public, not being members or officers of the Chief Pleas, to withdraw for the duration of such debate.

(3) For the purposes of subsection (2), "officers of the Chief Pleas" shall include the Prévôt, the Greffier, the Treasurer, or the duly appointed deputy of any of those persons, the Constable, the Vingtenier and any person charged with the duty of recording the minutes of the meeting.

(4) The Constable shall ensure that all orders made by the President under subsection (2) are complied with.

Chairmanship at meetings of the Chief Pleas and members' votes.

35. (1) If, at any meeting of the Chief Pleas, the President is absent, except where the Seneschal is presiding under section 22A(2), the Chief Pleas may appoint any member of the Chief Pleas to preside over that meeting.

(2) Each Conseiller present at a meeting of the Chief Pleas shall have one vote and, in the event of an equality of votes, the proposition shall be declared lost.

(3) The Seigneur shall have the right to speak at any meeting of the Chief Pleas but shall not have the right to vote.

(4) The President shall not have the right to speak in debate or to vote at any meeting of the Chief Pleas but any Conseiller who is presiding at a meeting of the Chief Pleas pursuant to subsection (1) shall retain his right to speak in debate and to vote at that meeting.

Other rules of procedure.

36. (1) Subject to the provisions of this Law, the Chief Pleas may from time to time by resolution prescribe rules of procedure applicable to meetings of the Chief Pleas, and rules made under this section may, in the like manner, be varied, revoked or suspended.

(2) The quorum at a meeting of the Chief Pleas is nine Conseillers in addition to the person presiding at that meeting.

Ordinances of the Chief Pleas

Matters for which Ordinances may provide.

37. The Chief Pleas may, from time to time, and subject to the

provisions of sections 38 and 39, make Ordinances for the maintenance of public order in, and for the regulation of the local affairs of, Sark and the territorial waters adjacent thereto.

Seigneur's veto

38. (1) Subject to subsections (2) and (3), the Seigneur may, during any meeting of the Chief Pleas at which an Ordinance is made, veto any Ordinance made at that meeting.

(2) Where an Ordinance has been vetoed pursuant to subsection (1), it shall not be registered but shall again be laid before the Chief Pleas not earlier than 10 days, and not later than 21 days, after the meeting at which it was made.

(3) Where an Ordinance is laid before the Chief Pleas pursuant to subsection (2), the Chief Pleas may either -

- (a) confirm the Ordinance, whereupon the veto shall cease to be operative and the Ordinance shall take effect from the date of its registration, or otherwise in accordance with its provisions, as if it had not been vetoed; or
- (b) refuse to confirm the Ordinance, whereupon it shall not be registered and shall not take effect.

Annulment of Ordinance by Royal Court

39. (1) An Ordinance which has not been vetoed shall, after registration by the Greffier, be transmitted to the Royal Court which may, without prejudice to anything done thereunder, annul the Ordinance on the ground that it is

ultra vires the Chief Pleas.

(2) The Chief Pleas may appeal to Her Majesty in Council against the annulment of an Ordinance pursuant to subsection (1).

Further provisions as to Ordinances.

40. (1) An Ordinance made under section 37 shall be read as subject to any Order in Council having the force of law in Sark and shall be void to the extent that it is repugnant to any such Order in Council.

(2) An Ordinance made under section 37 may empower a committee to make regulations for the purposes of any such Ordinance and to issue licences, permissions or directions in such manner and in such circumstances as any such Ordinance may provide.

(3) An Ordinance made under section 37 -

- (a) may make different provision for different cases,
- (b) may provide for any incidental, consequential, supplementary and transitional matters for which the Chief Pleas consider it expedient to provide for the purposes of the Ordinance,
- (c) may be varied or revoked by a subsequent Ordinance so made, and
- (d) may include provision as to the creation and punishment of offences.

(4) An Ordinance made under section 37 shall not specify as the penalty or maximum penalty for any offence created by such an Ordinance a penalty greater than that which the Court of the Seneschal has power to impose by virtue of section 11(2).

Provisionally effective Ordinances.

41. (1) This section applies in the case of any Ordinance which the Chief Pleas are empowered to make pursuant to this Law or any other enactment for the time being in force, and in respect of which Her Majesty's Procureur has certified that its immediate or early enactment is in his opinion necessary or expedient in the public interest.

(2) Where a draft of any Ordinance to which this section applies is presented to the [General Purposes and Advisory Committee] ("the Committee") at the instance of Her Majesty's Procureur, the Chief Pleas or the States of Guernsey, or at the instance of any Department, Authority, Board, Committee or Council of the Chief Pleas or the States of Guernsey, the Committee may, if in its opinion the immediate or early enactment thereof is necessary or expedient in the public interest, order that the same shall be operative either immediately or from such future date as the Committee shall prescribe.

(3) An Ordinance ordered by the Committee to be operative immediately or from a prescribed future date in accordance with subsection (2) of this section shall have effect accordingly in all respects, but subject to subsections (4) and (5) of this section, as if it had been made by the Chief Pleas on the date of the Committee's order.

(4) Every Ordinance which comes into effect by virtue of this section shall be laid before a meeting of the Chief Pleas as soon as possible, and in any event within 4 months of the date of the order made by the Committee under

subsection (2), in such manner as the Chief Pleas may from time to time resolve; and, if the Ordinance is not so laid, or if at that meeting the Chief Pleas resolve that the Ordinance be annulled, it shall cease to have effect, but without prejudice to anything previously done thereunder or to the making by the Committee of an order under subsection (2) in respect of a new Ordinance.

(5) Where a copy of an Ordinance having effect by virtue of subsection (3) is transmitted to the Royal Court pursuant to section 39(1), as applied by subsection (3) of this section, that Court may annul the Ordinance on the ground (instead of or in addition to those specified in the said section 39(1)) that the order under subsection (2) of this section is ultra vires the Committee.

NOTES

The words in square brackets in section 41(2) were substituted by the Sark General Purposes and Finance Committee (Transfer of Functions) Ordinance, 2009 with effect from 1st November, 2009.

Validity of existing Ordinances etc.

42. (1) An Ordinance made by the Chief Pleas before the date of commencement of section 37 which could, after the commencement of that section, be made by the Chief Pleas under the powers conferred thereby shall not be deemed to be, or ever to have been, invalid by reason only of a limitation on the powers of the Chief Pleas as those powers existed before the commencement of that section.

(2) Any regulations made by a committee and any other thing done by any body or person in the purported exercise or discharge of a power or duty conferred or imposed by such an Ordinance as is mentioned in subsection (1), being a power or duty which could, after the commencement of sections 37 and

40(2), be conferred by an Ordinance made under section 37, shall not be deemed to be, or ever to have been, invalid by reason only of a limitation of the powers of the Chief Pleas as those powers existed before the commencement of sections 37 and 40(2).

PART IV
COMMITTEES AND OFFICERS

Committees of the Chief Pleas

Douzaine.

43. (1) The Chief Pleas shall, at an extraordinary meeting of the Chief Pleas to be held as soon as reasonably practicable after the entry into office of the Conseillers following a general election, elect twelve Conseillers to be members of the Douzaine, subject to subsection (3), for the duration of their respective terms of office.

(2) The Chief Pleas shall from time to time, in the event of a vacancy arising in the Douzaine, elect a Conseiller to the Douzaine to fill such vacancy, such Conseiller to hold office for the period for which the Conseiller in whose place he has been elected would have held office.

(3) The Chief Pleas may at any time, by resolution, remove a person from the Douzaine.

(4) The Douzaine shall exercise the functions from time to time delegated to the Douzaine by resolution of the Chief Pleas.

(5) The quorum at a meeting of the Douzaine shall be such number of members as the Douzaine may, from time to time, resolve.

(6) The provisions of sections 45, 46 and 47 shall apply to the Douzaine as they apply to any other committee of the Chief Pleas.

Other committees of the Chief Pleas.

44. (1) The Chief Pleas may from time to time appoint one or more other committees of the Chief Pleas, and may elect some or all of the Conseillers, and, subject to subsection (4) and section 45(3), persons who are not Conseillers, to be members of such a committee.

(2) A committee appointed under subsection (1) shall exercise the functions from time to time delegated to that committee by resolution of the Chief Pleas during such period not longer than the terms of office of the Conseillers as the Chief Pleas by resolution may determine.

(3) The Chief Pleas may at any time, subject to subsection (4) and section 45(3), elect a person to a committee appointed under subsection (1) or, by resolution, remove a person from such a committee.

(4) The number of members of a committee appointed under subsection (1) who are not Conseillers shall not at any time exceed the number of members of that committee, excluding the chairman elected under section 46(1), who are Conseillers.

(5) The quorum at a meeting of a committee shall be three members or such larger number of members as the Chief Pleas may, in respect of a particular committee, resolve.

General provisions.

45. (1) A person may at any time resign his membership of a committee by letter addressed to the President.

(2) Where a Conseiller who has been elected to a committee by virtue of his office ceases to be a Conseiller he shall thereupon cease to be a member of that committee.

(3) No person who is the Seigneur, the President, the Seneschal, the Greffier, the Prévôt, the Treasurer, or the duly appointed deputy of any of those persons, may be elected as a member of a committee.

Chairmanship etc. of committees.

46. (1) The chairman of a committee is such person, being a Conseiller, as the committee may from time to time elect as chairman of that committee.

(2) A committee may from time to time appoint one of its members as deputy chairman of that committee.

(3) At a meeting of a committee the chairman, or if the chairman is absent the deputy chairman if any, or if both the chairman and any deputy chairman are absent such person as the committee appoints in respect of a particular meeting, shall preside.

(4) A person presiding at a meeting of a committee shall have an original but not a casting vote.

Functions of committees.

47. (1) The Chief Pleas may, subject to subsection (3), delegate to a

committee -

- (a) all functions other than legislative functions exercisable by the Chief Pleas;
- (b) to the extent permitted by section 40(2) or any Order in Council, and subject to subsection (5), legislative functions exercisable by the Chief Pleas.

(2) A delegation of functions under subsection (1) may be on such conditions as the Chief Pleas think fit including, without prejudice to the generality of the foregoing, conditions restricting the power of the committee to act without prior approval of the Chief Pleas and conditions requiring that the committee's actions be reported to the Chief Pleas at specified times and in a specified manner.

(3) A committee shall not sub-delegate any legislative functions.

(4) Except to the extent that the Chief Pleas may authorise a committee so to do, a committee shall not sub-delegate any of its other functions to a sub-committee without requiring that the prior approval of the committee be obtained to any action proposed to be taken by that sub-committee.

(5) Regulations made in exercise of a power delegated under subsection (1) shall be laid before a meeting of the Chief Pleas as soon as possible after they are made and in any event within 4 months thereafter; and if, at that meeting or the next subsequent meeting, the Chief Pleas resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done under them or to the making of new regulations.

Amendments by Ordinance.

48. The Chief Pleas may, by Ordinance, amend the provisions of sections 43 to 47.

Officers of the Island

Prévôt and Greffier.

49. (1) The Seigneur may, subject to the approval of the Lieutenant Governor, appoint a person, who is ordinarily resident in Sark, to act as the Prévôt and to perform all the duties and exercise all the powers assigned to the Prévôt under customary law and by or under this Law and any other enactment and, as respects his functions as an officer of the Chief Pleas, any resolution of the Chief Pleas.

(2) The Seigneur may, subject to the approval of the Lieutenant Governor, appoint a person, who is ordinarily resident in Sark, to act as the Greffier and to perform all the duties and exercise all the powers assigned to the Greffier under customary law or by or under this Law and any other enactment and, as respects his functions with regard to the Chief Pleas, any resolution of the Chief Pleas.

(3) The Seigneur may, after consultation with the Prévôt, appoint a person, who is ordinarily resident in Sark, to act as Deputy Prévôt and may, after consultation with the Greffier, appoint a person, who is ordinarily resident in Sark, to act as Deputy Greffier, respectively-

- (a) to perform all the duties and exercise all the powers under this Law, and
- (b) to perform all such other duties and exercise all such

other powers as are otherwise required by the law for the time being in force to be performed or exercised,

by the Prévôt or the Greffier, as the case may be, in the absence or incapacity of the principal office-holder, or should the principal office-holder, for any reason, be unable to act; provided that neither the Deputy Prévôt nor the Deputy Greffier shall perform any of the duties nor exercise any of the powers vested in the respective principal office-holder in his capacity as one of the Trustees within the meaning of section 56(1).

(4) A person appointed to hold the office of Prévôt, Deputy Prévôt, Greffier or Deputy Greffier shall not exercise his functions until he has, subject to section 3(2), taken the oath of office before the Court of the Seneschal in such form as may be prescribed by Ordinance.

(5) A person appointed to hold the office of Prévôt, Deputy Prévôt, Greffier or Deputy Greffier shall be paid such remuneration out of public funds as may from time to time be determined by the Chief Pleas upon the recommendation of the General Purposes and Advisory Committee in consultation with the Finance and Commerce Committee.

(6) A person appointed to hold the office of Prévôt, Deputy Prévôt, Greffier or Deputy Greffier shall not hold any other public office or appointment, including the office of special constable.

(7) A person appointed to hold the office of Prévôt or Greffier shall not be removable during his term of office except at his own request in writing addressed to the Seigneur or, for good cause, by direction of the Lieutenant Governor.

(8) A person appointed to hold the office of Deputy Prévôt or Deputy Greffier shall not be removable during his term of office except at his own request in writing addressed to the Seigneur or, for good cause, by direction of the Seigneur.

Treasurer.

50. (1) The Chief Pleas may, from time to time, appoint a person to act as the Treasurer of the Chief Pleas and to perform all the duties and exercise all the powers assigned to the Treasurer by or under this Law and any other enactment and by any resolution of the Chief Pleas.

(2) A person who is the Seigneur, the President, the Seneschal, the Prévôt, the Greffier, or the duly appointed deputy of any of those persons, the Constable, the Vingtenier or an Assistant Constable, shall not be appointed to act as Treasurer of the Chief Pleas.

(3) The Treasurer shall be ordinarily resident in Sark and shall devote such of his time to the duties of the Treasurer as the Chief Pleas shall reasonably require.

(4) A person appointed to hold the office of Treasurer shall not exercise his functions until he has, subject to section 3(2), taken the oath of office before the Court of the Seneschal in such form as may be prescribed by Ordinance and shall not be removable during his term of office except at his own request in writing addressed to the President or by resolution of the Chief Pleas.

(5) A person appointed to hold the office of Treasurer shall be paid such remuneration out of public funds as the Chief Pleas may from time to time resolve.

Deputy Treasurer.

51. (1) The Chief Pleas may, from time to time, appoint a person, who is ordinarily resident in Sark, to act as Deputy Treasurer.

(2) A person who is the Seigneur, the President, the Seneschal, the Prévôt, the Greffier, or the duly appointed deputy of any of those persons, the Constable, the Vingtenier or an Assistant Constable, shall not be appointed to act as Deputy Treasurer of the Chief Pleas.

(3) The Deputy Treasurer shall –

- (a) perform all the duties and exercise all the powers of the Treasurer under this Law; and
- (b) perform all such other duties and exercise all such other powers as are required by law for the time being in force to be performed or exercised by the Treasurer,

in the absence or incapacity of the Treasurer and during a vacancy in the office of Treasurer.

(4) A person appointed to hold the office of Deputy Treasurer shall not exercise his functions until he has, subject to section 3(2), taken the oath of office before the Court of the Seneschal in such form as may be prescribed by Ordinance and shall not be removable during his term of office except at his own request in writing addressed to the President or by resolution of the Chief Pleas.

(5) A person appointed to hold the office of Deputy Treasurer shall be paid such remuneration out of public funds as the Chief Pleas may from

time to time resolve.

Constable and Vingtenier.

52. (1) The Chief Pleas may, from time to time, appoint a person, who is ordinarily resident in Sark, to act as Constable and to perform all the duties and exercise all the powers assigned to the Constable under the customary law of Sark and by or under this Law and any other enactment.

(2) The Chief Pleas may, from time to time, appoint a person, who is ordinarily resident in Sark, to act as Vingtenier and to perform all the duties and exercise all the powers assigned to the Vingtenier under the customary law of Sark and by or under this Law and any other enactment.

(3) A person appointed to hold the office of Constable or Vingtenier shall not exercise his functions until he has, subject to section 3(2), taken the oath of office before the Court of the Seneschal in such form as may be prescribed by Ordinance.

(4) A person appointed to hold the office of Constable or Vingtenier may be removed from such office during the term of his appointment by resolution of the Chief Pleas with the consent of the Lieutenant Governor.

Assistant Constables.

53. (1) The Chief Pleas may, from time to time, appoint one or more persons, who is or are ordinarily resident in Sark, to act as Assistant Constable and to perform all the duties and exercise all the powers as may be assigned to him, and for such period and subject to such terms and conditions, as the Chief Pleas may by resolution determine.

(2) Subject to subsection (1), an Assistant Constable may, upon

being authorised by the Constable so to do, perform all the duties and exercise all the powers appertaining to the office of Constable.

(3) In the event of an Assistant Constable performing any duties or exercising any powers appertaining to the office of Constable which he is authorised to perform or exercise pursuant to subsections (1) and (2), the provisions contained in or made under any other enactment relating to the performance of such duties or the exercise of such powers shall have effect as if the reference therein to the Constable included a reference to an Assistant Constable.

(4) It shall be the duty of the Constable or, in the absence or incapacity of the Constable and during a vacancy in that office, the Vingtenier, to ensure that the Assistant Constables carry out the respective duties of their office faithfully and well.

(5) Nothing in this section shall derogate from the functions and powers of the Vingtenier.

(6) A person appointed to hold the office of Assistant Constable shall not exercise his functions until he has, subject to section 3(2), taken the oath of office before the Court of the Seneschal in such form as may be prescribed by Ordinance.

(7) An Assistant Constable shall not be removable during his term of office except at his own request in writing addressed to the President or by resolution of the Chief Pleas with the consent of the Lieutenant Governor.

Special Constables.

54. (1) The Constable may by writing appoint any person as a special constable –

- (a) for such period,
- (b) upon such terms and conditions as to service, and
- (c) subject to such limitations upon his functions as a special constable,

as he thinks fit.

(2) A special constable may be appointed with functions which are limited, whether by reference to their nature, the area in which they are to be performed, or their duration, or otherwise.

(3) A special constable appointed pursuant to subsection (1) shall not exercise his functions until he has, subject to section 3(2), taken the oath of office before the Court of the Seneschal in such form as may be prescribed by Ordinance, such oath to be limited to the extent of the functions for which he was appointed.

(4) A special constable shall not be removable during his term of office except at his own request in writing addressed to the Constable, or at the direction of the Constable, for good cause, with the consent of the Seigneur.

Procureur des Pauvres and Deputy Procureur des Pauvres.

55. (1) The Chief Pleas may, from time to time, on the recommendation of the Douzaine, appoint a person, who is ordinarily resident in Sark and who is not a member of the Douzaine, to act as Procureur des Pauvres and to perform all the duties and exercise all the powers assigned to the Procureur des Pauvres under the customary law of Sark and under any other enactment.

(2) The Chief Pleas may, from time to time, on the recommendation of the Douzaine and after consultation with the Procureur des Pauvres, appoint a person, who is ordinarily resident in Sark and who is not a member of the Douzaine, to act as Deputy Procureur des Pauvres.

(3) A person appointed to hold the office of Procureur des Pauvres or Deputy Procureur des Pauvres shall not exercise his functions until he has, subject to section 3(2), taken the oath of office before the Court of the Seneschal in such form as may be prescribed by Ordinance.

(4) A person appointed to hold the office of Procureur des Pauvres or Deputy Procureur des Pauvres shall hold office for a period of 2 years and shall not be removable during his term of office except at his own request in writing addressed to the President or by resolution of the Chief Pleas on the recommendation of the Douzaine.

PART V

PROPERTY, CONTRACTS AND FINANCIAL PROVISIONS

Property and contracts

Trustees.

56. (1) For the purposes of this Part of this Law, and subject to subsection (2), "the Trustees" shall mean the Seigneur and the holders for the time being of the offices of President, Prévôt and Greffier.

(2) The functions of the Trustees shall be exercisable by at least three of the Trustees acting together.

Acquisition, management and disposal of property.

57. (1) The Trustees, as agent for the Chief Pleas, have all powers necessary -

- (a) to give a receipt for property acquired by or on behalf of the Chief Pleas, which receipt shall be sufficient acknowledgement of its receipt by the Chief Pleas;
- (b) subject to any direction of the Chief Pleas, for the management and control of property vested in the Chief Pleas;
- (c) for the disposal of property vested in the Chief Pleas of which the Chief Pleas have authorised them to dispose.

(2) The Trustees shall not delegate their powers under this section to purchase, sell, alienate or charge property vested in the Chief Pleas but may, if authorised so to do by resolution of the Chief Pleas, delegate to a committee or other body their powers of management, repair and maintenance of such property.

Contracts.

58. A contract made on behalf of the Chief Pleas shall be expressed to be made by the Chief Pleas but shall be signed by the Trustees or such other person as the Chief Pleas may by Ordinance from time to time determine or by resolution in a particular case direct; and the signature of the Trustees or of such other person shall be prima facie evidence that the contract is the contract of the Chief Pleas.

Financial provisions

Annual budget.

59. (1) The Treasurer shall submit to the Chief Pleas at their Easter meeting audited accounts of the expenditure incurred for public purposes during the preceding financial year.

(2) The [Finance and Commerce Committee] shall, at a meeting in each financial year, present a Budget setting out the forecast costs during the next ensuing financial year of such public purposes as the Chief Pleas may by resolution have determined should be, or as are required by any enactment to be, provided or undertaken, and such Budget if approved by the Chief Pleas shall be submitted to the Lieutenant Governor for approval.

NOTES

The words in square brackets in section 59(2) were substituted by the Sark General Purposes and Finance Committee (Transfer of Functions) Ordinance, 2009 with effect from 1st November, 2009.

Taxation.

60. Subject to the provisions of the Direct Taxes (Sark) Law, 2002 and the Real Property (Transfer Tax, Charging and Related Provisions) (Sark) Law, 2007, the consent of Her Majesty in Council shall be required as heretofore for any taxation proposed by the Chief Pleas.

Consent of Lieutenant Governor.

61. No expenditure shall be incurred otherwise than in accordance with the Budget, as approved pursuant to section 59, except with the consent of the Lieutenant Governor.

Preparation of accounts.

62. (1) Accounts shall be prepared in respect of each financial year in such form as the Chief Pleas shall, subject to this section, from time to time resolve.

(2) The accounts referred to in this section are both revenue accounts and a statement of balances and include an account of monies received by and expended by or on behalf of the Chief Pleas.

(3) The Treasurer shall ensure that accounts are prepared and submitted to the auditor appointed pursuant to section 63, as soon as practicable after the end of each financial year, by every person who has, during that financial year, received or expended money, or had the control or management of property, on behalf of the Chief Pleas.

Audit etc. of accounts.

63. (1) The accounts shall be audited by a qualified auditor appointed from time to time by the Chief Pleas and approved by the Lieutenant Governor.

(2) A person shall not be appointed as auditor if he is a member of the Chief Pleas or if he holds any public office in Sark other than that of special constable.

(3) The remuneration and necessary expenses of the auditor in connection with his functions under this section shall be a debt due to him from the Chief Pleas as soon as he has completed the performance of those functions and shall be defrayed by the Treasurer out of public funds without the necessity of an order or vote or resolution of the Chief Pleas.

(4) The auditor shall audit the accounts prepared pursuant to section 62 and shall, as soon as possible after his audit is completed, submit a report to the Treasurer.

(5) As soon as practicable after the submission to him of the report referred to in subsection (4) the Treasurer shall submit that report to the Chief Pleas together with the accounts to which it relates and his comments thereon.

PART VI

MISCELLANEOUS AND GENERAL

Guernsey police in Sark.

64. (1) The Chief Officer of Guernsey Police may, upon the application of the Constable, and with the consent of the Seigneur, require one or more Guernsey police officers to attend in Sark to carry out such duties as he may order.

(2) The costs incurred by the presence of Guernsey police officers in Sark pursuant to subsection (1) shall be paid out of Sark public funds.

(3) If, at any time, the Lieutenant Governor considers that the presence of Guernsey police officers in Sark is required, and no application pursuant to subsection (1) has been made by the Constable, such an application may be made by Her Majesty's Procureur.

Interpretation.

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

"**Appointments Committee**" means the committee appointed by the Seigneur under section 5A;

"**Assistant Constable**" means a person appointed by the Chief Pleas to act as an Assistant Constable pursuant to section 53;

"**the Bailiff**" means the Bailiff of Guernsey;

"**by-election**" means an election to fill a casual vacancy among the Conseillers held or to be held on a day appointed under section 23(8) or 25(4);

"**Chief Pleas**" means the Chief Pleas of Sark constituted in accordance with Part III;

"**committee**" means the Douzaine appointed under section 43 or any committee of the Chief Pleas appointed under section 44;

"**Conseiller**" means a person elected as a Conseiller in accordance with this Law;

"**the Constable**" means a person appointed by the Chief Pleas to act as Constable pursuant to section 52 and shall, unless the context otherwise requires, include the Vingtenier and a Guernsey police officer on duty in Sark;

"**the Court**" means the Court of the Seneschal constituted in accordance with Part II;

"**Deputy Seneschal**" means a person appointed by the Appointments Committee to act as Deputy Seneschal pursuant to section 7;

"Douzaine" means the committee of the Chief Pleas appointed pursuant to section 43;

"election" means an election held under this Law for the purpose of electing one or more Conseillers;

"general election" means an election for the purpose of electing Conseillers held or to be held on a day appointed under section 23(1) or (7);

"the Greffier" means the person appointed to act as Greffier pursuant to section 49;

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

"Her Majesty's Procureur" includes Her Majesty's Comptroller;

"the law as to elections in Sark" means any provision relating to elections in Sark, whether contained in this Law, in an Ordinance made under this Law, or in any other enactment in force in Sark;

"legal disability" means being a minor; certification as a person of unsound mind; subjection in the case of a person aged 18 years or over to guardianship; being an in-patient for reasons of mental illness at a hospital or other institution; and the Chief Pleas may by Ordinance prescribe the extent to which a person serving a sentence of imprisonment imposed in consequence of conviction of an offence shall be regarded as being under a legal disability, and different provision may be made for different classes or categories of prisoner and different lengths of terms of imprisonment;

"the Lieutenant Governor" means the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey and its Dependencies;

"meeting of the Chief Pleas" means any meeting convened in accordance with section 32;

"the President" means the President of the Chief Pleas elected in accordance with section 22A;

"the Prévôt" means the person appointed to act as Prévôt pursuant to section 49;

"qualified auditor" means a person who is a member of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland or the Chartered Association of Certified Accountants, or who is recognised by the Chief Pleas as having similar qualifications obtained outside the United Kingdom;

"Register of Electors" means the register required to be prepared under section 29;

"regulations" includes orders, rules, schemes and other subordinate instruments of a legislative nature but does not include rules of court;

"Royal Court" means the Royal Court of Guernsey;

"Sark" means the Island of Sark and includes its dependencies;

"Seneschal" means a person appointed by the Appointments

Committee to act as Seneschal pursuant to section 6;

"special constable" means a person appointed to be a special constable pursuant to section 54;

"the Treasurer" means the person appointed to act as Treasurer pursuant to section 50;

"the Vingtenier" means the person appointed to act as Vingtenier pursuant to section 52.

(2) Unless the context otherwise requires, a reference in this Law to any other enactment is a reference to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment including this Law.

(3) Unless the context otherwise requires -

- (a) a reference in this Law to a numbered or lettered Part, section or Schedule is a reference to the Part or section of, or to the Schedule to, this Law which is so numbered or lettered;
- (b) a reference in a provision of this Law to a numbered or lettered subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of that provision which is so numbered or lettered.

(4) The Interpretation (Guernsey) Law, 1948^d applies to the interpretation of this Law as it applies to the interpretation of an enactment in force in the Island of Guernsey.

Amendments, repeals and general savings.

66. (1) The enactments specified in column (1) of Schedule 1 are amended to the extent specified in column (2) of that Schedule.

(2) The enactments specified in column (1) of Schedule 2 are repealed to the extent specified in column (2) of that Schedule.

(3) Without prejudice to the general application of section 19 of the Interpretation (Guernsey) Law, 1948 (effect of repeal and re-enactment) -

- (a) a reference in any other enactment to an enactment repealed by this Law shall, unless the contrary intention appears, be construed as including a reference to the corresponding provision of this Law;
- (b) any document referring, expressly or by implication, to an enactment repealed by this Law shall, so far as may be necessary for preserving its effect, be construed as referring, or as including a reference, to the corresponding provision of this Law;
- (c) in so far as any Ordinance, rule or regulation made or other thing done under an enactment repealed by this

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

Law, or having effect as if so made or done, could have been made or done under a corresponding provision of this Law, it shall have effect as if made or done under that corresponding provision.

Specific savings and transitional provisions.

67. (1) Without prejudice to the generality of section 66(3), a person who immediately before the commencement of this Law was, under the Reform (Sark) Law, 1951 -

- (a) the Seneschal of Sark;
- (b) the Deputy Seneschal of Sark;
- (c) the Prévôt, Greffier or Treasurer, or the duly appointed deputy of any of those persons, or the holder of any other public office or appointment, including the office of special constable,

shall be deemed to have been elected or appointed, as the case may be (on the date on which he was in fact so elected or appointed), under this Law.

(2) A person who, immediately before the commencement of this Law was, under the Reform (Sark) Law, 1951, a member of the Chief Pleas as a Tenant or as a Deputy of the People, shall continue in office until he ceases to hold office by virtue of the provisions of section 23(2) of this Law.

(3) A person who, immediately before the commencement of this Law was a member of the Douzaine constituted under section 21 of the Reform (Sark) Law, 1951, or a member of any other Committee of the Chief Pleas, shall,

whenever his term of office would otherwise expire, continue in office until he ceases to be a member by virtue of the provisions of section 23(2) of this Law, and shall then, without prejudice to his right to stand for re-election if he is eligible so to do, retire.

(4) Any legal proceedings commenced in Sark before the date when Part II of this Law comes into force and continuing on that date may be continued before the Court constituted under Part II as if they had been commenced (on the date when they were in fact commenced) before the Court.

(5) Nothing in this Law shall be construed as rendering a person-

(a) liable to prosecution under this Law in respect of an act or omission before the commencement of this Law;
or

(b) liable to a penalty in respect of such an act or omission which is greater than any penalty which could have been imposed in that respect if this Law had not been passed.

(6) A reference in any enactment passed or document made before the commencement of this Law to the Chief Pleas or to the Court shall, unless the context otherwise requires, be construed after the commencement of this Law as including a reference to the Chief Pleas or the Court, as the case may be, constituted under this Law.

Citation.

68. This Law may be cited as the Reform (Sark) Law, 2008.

Commencement.

69. This Law shall come into force on a date to be appointed by Ordinance of the Chief Pleas, and different dates may be appointed for different provisions of this Law and for different purposes.

SCHEDULE 1

Section 66(1)

ENACTMENTS AMENDED

(1) ENACTMENT	(2) AMENDMENT
The Road Traffic (Horse-Drawn Vehicles) (Sark) Law, 1969, as amended ^e	After section 2(2) insert the following subsection – "(3) Any sums received by way of fees for horse-drawn vehicle licences shall accrue to Chief Pleas and shall be applied towards expenditure for public purposes."
The Tractors (Sark) Law, 1974, as amended ^f	In section 10, at the end of subsection (2) insert the following words – "and the tax so paid shall be paid by the Constable to Chief Pleas and shall be applied towards expenditure for public purposes".
The Real Property (Succession) (Sark) Law, 1999 ^g	In section 8(12), the words ", except that he shall not be entitled to a seat in the Chief Pleas" are repealed, and in section 18(1), in the definition of "tenement", for the words "having the right to a seat in" substitute "the ownership of which, immediately before the commencement

^e Ordres en Conseil, Vol. XXII, p. 112; Vol. XXVII, p. 254; Vol. XXVIII, p. 328.

^f Ordres en Conseil, Vol. XXIV, p. 344; Vol. XXVIII, pp. 324 and 341; Vol. XXXI, p. 13.

^g Order in Council No. XIII of 1999.

Consolidated text

	of the Reform (Sark) Law, 2008, conferred the right to a seat in the Chief Pleas".
The Firearms (Sark) Law, 2001 ^h	In section 34(4), for the words "Constables Account", substitute "Chief Pleas and shall be applied towards expenditure for public purposes".

^h Order in Council No. XII of 2002.

SCHEDULE 2

Section 66 (2)

ENACTMENTS REPEALED

(1) ENACTMENT	(2) EXTENT OF REPEAL
The Reform (Sark) Law, 1951 ⁱ	The whole Law
The Court of the Seneschal (Increase of Jurisdiction and Transfer of Prisoners) Law, 1971 ^j	The whole Law
The Reform (Amendment) (Sark) Law, 1981 ^k	The whole Law
The Reform (Amendment) (Sark) Law, 1986 ^l	The whole Law
The Real Property (Succession) (Sark) Law, 1999	Sections 16 and 17
The Reform (Enactment of Ordinances) (Sark) Law, 2000 ^m	The whole Law

ⁱ Ordres en Conseil, Vol. XV, p. 215.

^j Ordres en Conseil, Vol. XXIII, p. 200.

^k Ordres en Conseil, Vol. XXVII, p. 385.

^l Ordres en Conseil, Vol. XXIX, p. 352.

^m Order in Council No. XI of 2000.