

PROJET DE LOI

ENTITLED

The Catering (Sark) Law, 1988 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. 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 the Greffier, La Chasse Marette, Sark, GY10 1SF.

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* Ordres en Conseil Vol. XXXI, p. 68; as amended by the Uniform Scale of Fines (Sark) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 320); the Catering (Transfer of Functions) (Sark) Ordinance, 1992 (Sark Ordinance No. 99); the Sark Machinery of Government (Transfer of Functions) Ordinance, 2017 (Sark Ordinance No. I of 2017); the European Communities (Food and Feed Controls) (Sark) Ordinance, 2019 (Sark Ordinance No. * of 2019). This Law is prospectively amended by the Catering (Sark) (Amendment) Law, 2014 (No. XII of 2014).

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The Catering (Sark) Law, 1988

THE CHIEF PLEAS OF SARK, in pursuance of their Resolution of the 6th day of August, 1986, have approved the following provisions, which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Sark.

Prohibition of unlicensed catering.

1. No person shall, on any premises offer or provide, or cause or permit to be offered or provided, for reward food or drink for consumption on the premises except under and in accordance with the conditions of a written permit (a "**catering permit**") granted by the Committee in respect of the premises:

Provided always that the Committee may in writing exempt any person from the requirements of this section in respect of any premises when in the opinion of the Committee the provision by such person on such premises of food or drink for reward is of a temporary or charitable nature.

Appointment of Inspectors.

2. The Committee may, for the purposes of carrying out their duties under this Law, appoint in writing such Inspectors (hereinafter referred to as an "**Inspector**") either generally or for a special purpose as it may deem necessary.

Application for catering permits.

3. A person wishing to obtain a catering permit shall apply in that behalf to the Committee in such form and manner as the Committee may require.

Duration of permits.

4. A catering permit (unless suspended or revoked under section 9) is valid until the end of the calendar year in which it is granted.

Renewal of permits.

5. (1) A catering permit may be renewed by the Committee upon an application being made to it in that behalf at least 3 months before the permit would otherwise expire.

(2) An application for a renewal shall be made by the holder in such form and manner as the Committee may require.

(3) If renewed, the permit (unless suspended or revoked under section 9) is valid for the whole of the calendar year immediately following the date on which it would otherwise have expired.

Information in support of applications.

6. (1) On an application for the grant or renewal of a catering permit, the Committee may require the applicant to furnish such information and documentation (in addition to that required by section 7) as it considers necessary to enable it to determine the application.

(2) The Committee may refuse to entertain the application if the applicant fails to furnish any such information or documentation.

Matters to accompany application.

7. An application for the grant or renewal of a catering permit in respect of any premise shall be accompanied by –

(a) the prescribed fee (which is not refundable if the

catering permit is refused or not renewed or is subsequently revoked or suspended),

- (b) in the case of an application for the grant of a permit, a written report of an Inspector stating whether or not, in his opinion, the premises are provided with –
 - (i) a sewerage system,
 - (ii) lavatories and wash-basins, and
 - (iii) a pure and wholesome supply of water, in each case adequate for the catering purpose and purposes ancillary thereto, to which the premises are to be put, [...]
- (c) a certificate of the [Tourism Committee] stating the results of an analysis of a sample of water taken from the premises, by a person authorised in that behalf by the [Tourism Committee], not more than 8 weeks prior to the date on which the application is made[,]
- [(d) evidence that the applicant is registered under the Food Ordinance as the operator of a food business in respect of the premises.]

NOTES

In section 7,

the word omitted in square brackets at the end of paragraph (b)(iii) was repealed, the punctuation in square brackets at the end of paragraph (c) was substituted and paragraph (d) was inserted by the European

Communities (Food and Feed Controls) (Sark) Ordinance, 2019, section 89, Schedule 9, with effect from 3rd October, 2019, subject to the transitional and savings provisions in section 90 of, and Schedule 10 to, the 2019 Ordinance;

the words "Tourism Committee" in square brackets, wherever occurring, were substituted by the Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2017, section 2, Schedule 1, paragraph 7(c), Schedule 2, Part 1, paragraph 2, with effect from 14th January, 2017.

Grant and refusal of permits.

8. Subject to section 10, the Committee may, on an application for the grant or renewal of a catering permit –

- (a) grant or renew, or refuse to grant or renew, the permit,
- (b) grant or renew the permit subject to such conditions, stated in the permit, as the Committee considers necessary or expedient.

Revocation, etc. of permits.

9. Subject to section 10, the Committee may at any time revoke, suspend, or vary the conditions of, a catering permit.

Matters to be considered in granting, etc. permits.

10. (1) In deciding whether to –

- (a) grant, renew, revoke, suspend or vary the conditions of, a catering permit, or
- (b) grant or renew a catering permit subject to conditions, the Committee shall consider –

- (i) any report or certificate submitted under section 7(b) or (c),
- (ii) whether any fact or matter mentioned in a report or certificate has ceased to hold true,
- (iii) whether any lavatory, wash-basin or supply of water on the premises will be available for use by customers,
- (iv) whether the applicant for, or holder of, the catering permit has at any time committed an offence under this Law [or the Food Ordinance] or failed to comply with any condition of a catering permit,
- (v) the nature, condition, arrangement and standard of hygiene of the premises and their amenities,
- [(va) whether the applicant for, or holder of, the catering permit is duly registered under the Food Ordinance as the operator of a food business in respect of the premises,]
- (vi) the location of the premises,
- (vii) any representations of the resident doctor or his locum or of an Inspector.

(2) The Committee shall not –

- (a) revoke, suspend, vary the condition of, or refuse to grant or renew, a catering permit, or
- (b) grant or renew a catering permit subject to conditions,

without first giving the applicant for, or holder of, the permit at least 14 days' written notice of its intended decision in which to make representations to the Committee, personally or by a representative.

NOTE

In section 10, first, the words in square brackets in paragraph (b)(iv) and, second, paragraph (b)(va) of subsection (1) were inserted by the European Communities (Food and Feed Controls) (Sark) Ordinance, 2019, section 89, Schedule 9, with effect from 3rd October, 2019, subject to the transitional and savings provisions in section 90 of, and Schedule 10 to, the 2019 Ordinance.

Notification of refusal, etc. of permit.

11. The Committee –

- (a) on refusing to grant or renew, revoking, suspending, or varying the conditions of, a catering permit, or
- (b) on granting or renewing a catering permit subject to conditions,

shall, within 14 days of the decision, give written notice of the decision and the reasons for it to the applicant for, or the holder of, the permit.

Appeals.

12. (1) If the Committee –

- (a) refuses to grant or renew, revokes, suspends, or varies the conditions of, a catering permit, or
- (b) grants or renews a catering permit subject to conditions,

an appeal from the decision lies to the Court on the ground that –

- (i) the Committee has considered matters other than those set out in section 10(1), or has acted in a manner contrary to natural justice, or
- (ii) the decision was *ultra vires* or was an unreasonable exercise of the Committee's powers.

(2) Notice of an appeal under this section shall be given by the appellant to the Greffier within 14 days of the date on which the Committee gives written notice of the decision to the appellant.

(3) A decision of the Court on an appeal under this section is final.

(4) A decision of the Committee to revoke, suspend, or vary the conditions of, a catering permit, is not effective until the expiration of 14 days from the date on which the Committee gives written notice of the decision to the holder or, if notice of an appeal under this section is given in respect of the decision, until the appeal is determined.

Exhibition of permits.

13. A catering permit, or a copy thereof, shall be exhibited by the holder in a prominent position in or at the main entrance to the premises to which the permit relates.

Duplicate permits.

14. If the holder of a catering permit satisfies the Committee that the permit has been lost, destroyed or defaced, the Committee shall, on payment of the prescribed fee, issue a duplicate.

Register of permits.

15. The Committee shall establish and maintain a register, in a book kept solely for that purpose, of every catering permit granted by it, and of every renewal, revocation, suspension, or variation of the conditions, of any such permit.

Powers of inspectors.

16. (1) An Inspector may at any reasonable time, subject to the production on demand of proof of his identity, enter and inspect any premises in respect of which a catering permit has been applied for or is in force.

(2) Where there is reasonable cause to believe that any premises are being used in contravention of section 1, the Committee may, by order in writing signed by its Chairman or Vice-Chairman, authorise an Inspector, at any reasonable time within 7 days of the date of the order, to enter and inspect the premises to ascertain whether they are being so used.

Offences.

17. A person who –

- (a) contravenes or fails to comply with section 1 or 13,
- (b) for the purpose of obtaining the grant or renewal of a catering permit or the issue under section 14 of a duplicate permit, or to avoid the revocation suspension, or variation of the conditions, of a catering permit,

furnishes any information or documentation, or makes a statement (written or otherwise), to the Committee or to an Inspector which is false in any material particular,

- (c) without reasonable excuse obstructs an Inspector exercising any power conferred by section 16; or
- (d) publicly exhibits a notice or document which falsely suggests that he holds –
 - (i) a catering permit,
 - (ii) an unconditional catering permit, or
 - (iii) a catering permit upon conditions more favourable than those in fact attached to the permit,

is guilty of an offence and liable on conviction to a fine not exceeding [level 3 on the Sark uniform scale], or to a term of imprisonment not exceeding one month, or to both.

NOTE

In section 17, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Sark) Law, 1989, section 2(2), with effect from 1st November, 1989.

Offences by companies.

18. Where an offence under this Law is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other

similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence and may be proceeded against and punished accordingly.

Offences due to default of third person.

19. Where the commission by a person of an offence under this Law is due to the act or default of another person, the latter is guilty of the offence and may be proceeded against and punished accordingly, whether or not proceedings are taken against the former.

Interpretation.

20. (1) In this Law –

"catering permit" has the meaning given by section 1,

"the Committee" means the [Tourism] Committee,

"the Court" means the Court of the Seneschal,

[**"the Food Ordinance"** means the European Communities (Food and Feed Controls) (Sark) Ordinance, 2019,]

"holder", in relation to a catering permit, means the person to whom the permit was granted,

"Inspector" has the meaning assigned to it in section 2 of this Law,

"the Island" means the Island of Sark and any of its Dependencies,

"premises" includes part of any premises,

"prescribed" means prescribed by Resolution of the Chief Pleas.

(2) For the purposes of section 1, food or drink is provided for consumption on any premises if it is provided at those premises for consumption on any other premises connected with those premises.

(3) The Interpretation (Guernsey) Law, 1948^a applies to the interpretation of this Law as it applies to the interpretation of a Guernsey enactment.

(4) Any reference in this Law to another enactment is a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment including this Law.

NOTES

In section 20,

the word in square brackets in the definition of the expression "the Committee" in subsection (1) was substituted by the Sark Machinery of Government (Transfer of Functions) Ordinance, 2017, section 2, Schedule 1, paragraph 7(c), Schedule 2, Part 1, paragraph 2, with effect from 14th January, 2017;¹

the definition of the expression "the Food Ordinance" in subsection (1) was inserted by the European Communities (Food and Feed Controls) (Sark) Ordinance, 2019, section 89, Schedule 9, with effect from 3rd October, 2019, subject to the transitional and savings provisions in section 90 of, and Schedule 10 to, the 2019 Ordinance.

The functions, rights and liabilities of the Public Health Committee and of its Chairman arising under or by virtue of this Law were transferred to and vested in, respectively, the Tourism Committee and its Chairman by the Sark Machinery of Government (Transfer of Functions) Ordinance, 2017, section 1, Schedule 1, paragraph 7(c), Schedule 2, Part 1, paragraph 2, with effect from 14th January, 2017, subject to the savings and transitional provisions in section 3 of the 2017 Ordinance.²

The Interpretation (Guernsey) Law, 1948 has since been repealed by the

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

Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Citation.

21. This Law may be cited as the Catering (Sark) Law, 1988.

Commencement.

22. This Law shall come into force on such date as the Chief Pleas may by Ordinance appoint.

NOTE

The Law was brought into force on 5th October, 1988 by the Catering (Sark) Law, 1988 (Commencement) Ordinance, 1988, section 1.

¹ These words were previously substituted by the Catering (Transfer of Functions) (Sark) Ordinance, 1992, section 2, with effect from 1st October, 1992.

² The functions of the Public Health Committee under this Law were previously transferred to it from the Tourism Committee by the Catering (Transfer of Functions) (Sark) Ordinance, 1992, section 1, with effect from 1st October, 1992, subject to the savings in section 3 of the 1992 Ordinance.