

PROJET DE LOI

ENTITLED

The Sewerage (Sark) Law, 1978 *

[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. XXVI, p. 445; as amended by the Uniform Scale of Fines (Sark) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 320); the Sark Machinery of Government (Transfer of Functions) Ordinance, 2017 (Sark Ordinance No. I of 2017). See also the Police Force (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); the Development Control (Sark) Law, 1991 (No. IX of 1991, Ordres en Conseil Vol. XXXIII, p. 155).

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ARRANGEMENT OF SECTIONS

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THE CHIEF PLEAS OF SARK, in pursuance of their Resolution of the nineteenth day of January, nineteen hundred and seventy-seven, 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.

New buildings to be provided with any necessary drainage.

1. (1) Notwithstanding the provisions of the Preservation of Natural Amenities and Agricultural Land Control (Sark) Law, 1961^a (hereafter in this Law referred to as "**the Law of 1961**"), and of any Ordinance made thereunder, but subject to the provisions of this section, where an application for permission to carry out works or to develop agricultural land in respect of the erection of a building or an extension of a building is made in accordance with the provisions of any Ordinance made under the Law of 1961, the Preservation of Natural Amenities and Agricultural Land Control Committee constituted under that Law (hereafter in this Law referred to as "**the Natural Amenities Committee**") shall refuse such application unless, after consultation with the Committee, the Natural Amenities Committee is satisfied either that satisfactory provision will be made for the drainage of the building or of the extension or that in the case of the particular building or extension it may properly dispense with any provision for drainage.

(2) The Natural Amenities Committee may require any person applying for any permission under the Law of 1961 to which the provisions of the last preceding subsection applies to supply to the Natural Amenities Committee such information, including plans, as the Natural Amenities Committee deems necessary for the purpose of ascertaining whether or not satisfactory provision will be made for the drainage of the building or of the extension.

^a Ordres en Conseil Vol. XVIII, p. 303.

(3) Notwithstanding the provisions of the Law of 1961 any person aggrieved by a decision of the Natural Amenities Committee refusing an application under the provisions of subsection (1) of this section may, within twenty-eight days from the date of the service on him of a notice of such refusal, appeal to the Court, which may either confirm the decision of the Natural Amenities Committee refusing such application or order that any provision for drainage be dispensed with, or, as the case may be, that the provision for drainage proposed to be provided be accepted as satisfactory.

NOTES

The Preservation of Natural Amenities and Agricultural Land Control (Sark) Law, 1961 has since been repealed by the Development Control (Sark) Law, 1991, section 16, with effect from 22nd April, 1992.

In accordance with the provisions of the Development Control (Sark) Law, 1991, section 3, with effect from 22nd April, 1992, the Chairman and members of the Preservation of Natural Amenities and Agricultural Land Control Committee ("the Natural Amenities Committee"), being the committee constituted by Resolution of the Chief Pleas for the purposes of the Preservation of Natural Amenities and Agricultural Land Control (Sark) Law, 1961, in office immediately before the aforementioned date shall, on that date, take office by virtue of the aforesaid section 3 as the first Chairman and members of the Development Control Committee.

Provisions as to drainage of existing buildings.

2. (1) If it appears to the Committee that in the case of any building –
- (a) satisfactory provision has not been, and ought to be, made for drainage, or
 - (b) any cesspool, sewer, drain, soil pipe, rain water pipe, spout, sink or other necessary appliance provided for the building, is insufficient or is so defective as to admit subsoil water, or
 - (c) any cesspool or other such work or appliance as aforesaid provided for the building is in such a condition as to be prejudicial to health or a nuisance, or

- (d) any cesspool, sewer or drain formerly used for the drainage of the building, but no longer used therefor, is prejudicial to health or a nuisance,

the Committee may by notice in writing require the owner of the building to make satisfactory provision for the drainage of the building, or, as the case may be, require such owner to do, within such time as shall be specified in such notice, such work as may be necessary for renewing, repairing or cleansing the existing cesspool, sewer, drain, pipe, spout, sink or other appliance, or for filling up, removing or otherwise rendering innocuous the disused cesspool, sewer or drain.

(2) Any owner aggrieved by a requirement of the Committee under the provisions of the last preceding subsection may, within twenty-eight days from the date of the service on him of a notice of such requirement, appeal to the Court, which may either disallow the requirement of the Committee or allow it with or without modifications.

Disconnection of drains.

3. (1) Where any person –

- (a) reconstructs in the same or in a new position a drain which connects with a sewer or another drain, or
- (b) executes any work to such a drain so as permanently to discontinue its use, or
- (c) executes any work on premises served by such a drain so as permanently to discontinue its use,

he shall give reasonable notice in writing of such work to the Committee and shall cause any drains or parts of drains thereby becoming disused or unnecessary to be disconnected and sealed at such points as the Committee may by notice in writing to such person reasonably require.

(2) Any person aggrieved by a requirement of the Committee

under the provisions of the last preceding subsection may, within twenty-eight days from the date of the service on him of a notice of such requirement, appeal to the Court, which may either disallow the requirement of the Committee or allow it with or without modifications.

(3) A person shall not be required under this section to carry out any work on land outside the premises served by such drain if he has no right to carry out that work.

(4) A person who knowingly fails to give notice to the Committee in accordance with the provisions of subsection (1) of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the Sark uniform scale].

NOTE

In section 3, 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.

Power to enter premises.

4. (1) Subject to the provisions of this section, a person authorised in that behalf by the Committee, shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours –

- (a) for the purpose of ascertaining whether there is, or has been, on or in connection with such premises any contravention of the provisions of this Law,
- (b) for the purpose of ascertaining whether or not circumstances exist which would authorise the Committee to take any action, or execute any work, under this Law,
- (c) for the purpose of taking any action, or executing any

work, authorised by this Law to be taken or executed by the Committee:

Provided that admission to any premises used only as a private dwelling-house shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) If the Seneschal or Deputy Seneschal is satisfied by information on oath –

- (a) that there is reasonable ground for entry into any premises for any purpose as is mentioned in the last preceding subsection, and
- (b) is also satisfied either –
 - (i) that admission to the premises has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier, or
 - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is temporarily absent,

he may grant a warrant authorising the Committee, by a person authorised in that behalf by the Committee, the Constable, the Vingtenier or an officer of police, to enter the premises for any such purpose as aforesaid.

(3) Every warrant granted under the last preceding subsection shall continue in force for a period of one month.

(4) A person entering any premises by virtue of the provisions of subsection (1) of this section or of a warrant granted under subsection (2) of this

section may take with him such other persons and such vehicles, materials and equipment as may be necessary.

(5) Any person who wilfully obstructs any person acting in the execution of a warrant granted under subsection (2) of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the Sark uniform scale].

NOTE

In section 4, 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.

Service of notices.

5. Any notice which may be served for the purposes of this Law shall be validly served –

- (a) on any person, if delivered to him, left, or sent by registered post or by recorded delivery service to him, at his usual or last known place of abode,
- (b) on any firm if delivered to any partner of the firm or left at, or sent by registered post or by recorded delivery service to, the principal or last known principal place of business of the firm,
- (c) on any body corporate, if left at, or sent by registered post or by recorded delivery service to its registered office or its principal or last known principal place of business,

or if notice on any such person, firm or body corporate cannot be served as aforesaid, or if it is not practicable after reasonable enquiry to ascertain the name of the person on whom the notice is to be served, notice shall be published on at least two occasions in "La Gazette Officielle" and such publication shall constitute

sufficient service of the notice on any such person, firm or body corporate, as the case may be.

Appeals.

6. An appeal under this Law shall be instituted by way of summons which shall set out the material facts upon which the appellant relies and which shall be served on the Chairman of the Natural Amenities Committee or the Chairman of the Committee, as the case may be, to show cause why the decision appealed from should not be set aside or varied.

Offences.

7. Any person who fails to comply with a requirement of the Committee made on him under the provisions of subsection (1) of section two or subsection (1) of section three of this Law and –

- (a) he has not appealed to the Court against such requirement and the time for appealing has expired, or
- (b) his appeal has been dismissed or such requirement has been modified on his appeal and he has failed to comply with such requirement as so modified,

shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the Sark uniform scale].

NOTE

In section 7, 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 bodies corporate.

8. Where a person convicted of an offence under this Law is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the

offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Work in default under sections two and three.

9. Without prejudice to any proceedings for an offence under this Law consequent upon such failure, where a person has failed to comply with a requirement of the Committee made on him under the provisions of subsection (1) of section two or subsection (1) of section three of this Law and –

- (a) he has not appealed to the Court against such requirement and the time for appealing has expired, or
- (b) his appeal has been dismissed or such requirement has been modified on his appeal and he has failed to comply with such requirement as so modified,

the Committee may execute the work specified in the requirement as originally made or as modified on appeal, as the case may be, and may recover the expenses reasonably incurred by it in so doing from the person in default as a civil debt due to Chief Pleas.

Power to require occupier to permit work to be executed by owner.

10. (1) Where on an application made to the Court by the owner of any premises, it appears to the Court that the occupier of such premises prevents such owner from executing any work which he is by or under this Law required to execute, the Court may order the occupier to permit the execution of such work.

(2) An application made under the provisions of the last preceding subsection shall be instituted by way of summons which shall be served on the occupier of such premises.

Interpretation.

11. (1) In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them that is to say –

"the Committee" means the Sark [Development Control Committee],

"the Court" means the Court of the Seneschal,

"drain" means a drain used for the drainage of one building or of any building or yards appurtenant to buildings within the same curtilage,

"drainage" includes the conveyance of refuse water and the conveyance of rain water from roofs,

"erection" includes re-erection,

"this Island" means the Island of Sark,

"occupier", in relation to any premises, means the person who, not being the owner of those premises, is in or is entitled to actual possession of those premises,

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

"owner" in relation to any premises means –

- (a) where the premises are the subject of saisie proceedings which have resulted in the making of an interim vesting order, the person in whose favour such order has been made,
- (b) where the premises are not the subject of saisie proceedings but are the subject of a vested right of usufruct, the usufructuary,
- (c) where the premises are not the subject of such saisie proceedings or of such right of usufruct –

- (i) the beneficial owner, if those premises are not held in trust, or
- (ii) the trustees, if those premises are held in trust,

"prejudicial to health" means injurious, or likely to cause injury, to health,

"premises" includes land,

"sewer" includes sewers of every description used for the drainage of any building or land and also includes sewage disposal works and any other apparatus used in connection with such drainage.

(2) Any reference in this Law to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as amended, repealed or replaced, extended or applied by or under any other enactment including this Law.

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

NOTES

In section 11, the words in square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the Sark Machinery of Government (Transfer of Functions) Ordinance, 2017, section 2, Schedule 1, paragraph 7(b), Schedule 2, Part 1, paragraph 1, with effect from 14th January, 2017.

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 Development Control Committee and its Chairman by the Sark Machinery of Government (Transfer of Functions) Ordinance, 2017, section 1, Schedule 1, paragraph 7(b), Schedule 2, Part 1, paragraph 1, with effect from 14th January, 2017, subject to the savings and transitional provisions in section 3 of the 2017 Ordinance.

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

In accordance with the provisions of the Police Force (Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

Citation.

12. This Law may be cited as the Sewerage (Sark) Law, 1978.

Commencement.

13. 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 17th January, 1979 by the Sewerage (Sark) Law, 1978 (Commencement) Ordinance, 1979, section 1.
