

# PROJET DE LOI

ENTITLED

## **The Tourism (Sark) Law, 1982 \***

[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. XXVII, p. 576; as amended by the Tourism (Amendment) (Sark) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 488); the Uniform Scale of Fines (Sark) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 320); the Tourism (Sark) (Amendment) Law, 2012 (No. XII of 2012); the Tourism (Sark) (Amendment) Law, 2014 (No. III of 2015); the Tourism (Accommodation Permits) (Sark) Ordinance, 2011 (Sark Ordinance No. 208A); the Sark Machinery of Government (Transfer of Functions) Ordinance, 2017 (Sark Ordinance No. I of 2017). See also the Tourism (Amendment) (Sark) Law, 1986 (*supra*).

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## **The Tourism (Sark) Law, 1982**

### ARRANGEMENT OF SECTIONS

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## **The Tourism (Sark) Law, 1982**

**THE CHIEF PLEAS OF SARK**, in pursuance of their Resolution of the twenty-second day of April, nineteen hundred and eighty-one, 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.

### **Appointment of Tourism Committee.**

1. The Chief Pleas shall appoint a Committee to be styled the Tourism Committee (hereinafter referred to as "**the Committee**") with authority to exercise the powers and perform the duties conferred and imposed upon it by or under this Law.

### **Constitution of the Committee.**

2. The Committee shall be constituted in such manner as the Chief Pleas may, from time to time, by Resolution resolve.

### **Duties of the Committee.**

3. It shall be the duty of the Committee –
- (a) to develop and advertise the amenities and attractions of the Island both with the object of encouraging visitors to the Island and in the interests of such visitors and of the inhabitants of the Island as a whole,
  - (b) to control the provision to visitors to the Island of –

- (i) sleeping accommodation, board and lodging in any premises in the Island,
  - (ii) letting of any premises for residential purposes,
  - (iii) letting of sites for camping,
- (c) to make, if necessary, recommendations to the Chief Pleas, from time to time, as to any legislation which may be necessary for the fulfilment of the duties set out in this section.

**Power of the Committee to appoint Inspectors.**

4. The Committee may, for the purpose 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.

**Prohibition of unauthorised provision of accommodation in premises and sites.**

5. (1) Subject to the provisions of the next succeeding subsection, a person shall not –

- (a) provide sleeping accommodation, board, lodging or board and lodging in any premises, for reward for two or more persons at any one time,
- (b) let any premises, whether furnished or unfurnished, for residential purposes, to any other person for any period of three months or less,
- (c) let any site for camping to any other person at any time,

save under and in accordance with a permit (hereinafter referred to as an **"accommodation permit"**) granted by the Committee in respect of the premises or site, as the case may be, in which such accommodation is provided.

(2) For the purposes of the last preceding subsection, no account shall be taken of –

- (a) persons engaged in full-time domestic duties directly connected with the premises in which they sleep,
- (b) persons accommodated as pupils, teachers or organisers in bona-fide educational establishments; or persons engaged in full-time domestic duties and sleeping in such establishments,
- (c) persons accommodated as ministers of religion in bona-fide religious establishments; or persons engaged in full-time domestic duties and sleeping in such establishments,
- (d) persons accommodated in respect of an occupation directly concerned with the care of the sick, infirm, aged, or mentally affected persons or of persons under their care as patients of such persons,
- (e) children under the age of ten years,
- (f) persons accommodated in such circumstances that the Committee shall deem it unreasonable to apply the provisions of this Law.

(3) For the purposes of this section the expression "**premises**" shall include any part of any premises and the expression "**let**" shall include sub-letting.

**Accommodation permits.**

6. (1) Any person desirous of obtaining an accommodation permit shall make application in that behalf to the Committee and such application shall be in such form and accompanied by such information as the Committee may, from time to time, require[, including (without limitation) –

- (a) for the purposes of section 8(b)(ii), a statement in writing issued by the Douzaine confirming whether or not the premises are inscribed on the Register of Restricted Dwellings established by the Housing (Control of Occupation) (Sark) Law, 2011, and
- (b) for the purposes of, and in compliance with, section 8(b)(iii), a certificate of the [Tourism Committee]].

(2) Subject to the provisions of sections eight and ten of this Law, the Committee may upon receipt of an application under the provisions of the last preceding subsection –

- (a) grant the permit applied for, or
- (b) refuse to grant such permit, or
- (c) grant such permit subject to such conditions either as to duration or otherwise as the Committee may consider it necessary or expedient to impose.

(3) Accommodation permits shall be in writing and shall be deemed to be unconditional save in so far as any conditions thereof are stated therein.

(4) Subject to the provisions of section eight of this Law, the Committee may from time to time revoke, suspend or vary the conditions of any accommodation permit.

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**NOTES**

*In section 6,*

*the words in square brackets were inserted by the Tourism (Sark) (Amendment) Law, 2014, section 2, with effect from 30th January, 2015;*

*the words in square brackets within the square brackets were 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.*

*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.*

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**Fees for accommodation permits.**

7. There shall be paid in advance to the Treasurer in respect of the grant of an accommodation permit for each one of the number of persons authorised to be accommodated in the premises or on the site, as the case may be, under and in accordance with such accommodation permit a fee of one pound or such other fee as the Chief Pleas may, from time to time, by Ordinance prescribe.

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**NOTE**

*The following Ordinance has been made under section 7:*

*Tourism (Accommodation Permits) Fees) (Sark) Ordinance, 2021.*

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**Matters to be considered in granting, refusing, etc., accommodation permits.**

8. In considering whether any accommodation permit shall be granted, refused, suspended or revoked, or what conditions (if any) shall be attached thereto or whether and in what respects a condition attached to any accommodation permit should be varied the Committee shall take into consideration –

- (a) in the case of sleeping accommodation in any premises, the nature of the accommodation and the amenities provided or to be provided,
- [(b) in the case of the letting of any premises –
  - (i) the nature and condition of such premises and, in the case of furnished premises, the household furniture, equipment and amenities provided or to be provided,
  - (ii) whether the premises are inscribed on the Register of Restricted Dwellings established by the Housing (Control of Occupation) (Sark) Law, 2011, and the effect of any such inscription upon the lawful occupation of those premises by any person,
  - (iii) the results of an analysis of a water sample taken from the premises, by a person authorised by the [Tourism Committee], not more than 8



weeks prior to the date when the matter is considered by the Committee,]

- (c) in the case of the letting of any site, the nature and condition of the site and the amenities provided or to be provided,
- (d) the charges made or to be made for the accommodation, premises or site, as the case may be, and for meals, service and any matter ancillary thereto provided or to be provided for persons so accommodated or in respect of the premises or the site, in relation to what is or is to be provided for those charges,
- [(e) the nature of the establishment in which accommodation is provided or is to be provided in relation to its neighbours,
- (f) the interest taken as a whole of visitors generally and of the inhabitants of the Island or of any one or more of them,
- (g) any pertinent resolution of Chief Pleas,]
- [(h)] the breach (if any) by the person applying for or to whom an accommodation permit has been granted of any duty laid upon him by this Law or by an Ordinance made thereunder,
- [(i)] the conviction of a person, to whom an accommodation permit has been granted, of a contravention of the

provisions of subsection (3) of section fifteen of this Law,

and shall not refuse an application for or revoke an accommodation permit or revoke, suspend or vary (otherwise than by way of revocation) the conditions of such permit without first giving the applicant for or holder of the permit, as the case may be, not less than fourteen days' notice in which to make any relevant representations before the Committee either personally or by a representative.

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## NOTES

*In section 8,*

*paragraph (b) was substituted by the Tourism (Sark) (Amendment) Law, 2014, section 3, with effect from 30th January, 2015;*

*the words in square brackets within paragraph (b) were 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;*

*first, paragraph (e), paragraph (f) and paragraph (g) were inserted and, second, paragraph (h) and paragraph (i) were re-lettered, by the Tourism (Amendment) (Sark) Law, 1986, respectively section 1(a) and section 1(b), with effect from 3rd March, 1987.*

*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.*

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## **[Section 8A.**

**8A.** The Committee may at any time for the purposes of considering the matters set out in section 8 require any person to produce such information in such form as the Committee may require.]

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**NOTE**

*Section 8A was inserted by the Tourism (Sark) (Amendment) Law, 2014, section 4, with effect from 30th January, 2015.*

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**Notification of refusal, etc. of an accommodation permit.**

**9.** The Committee shall –

- (a) on refusing any application for an accommodation permit,
- (b) on granting any accommodation permit otherwise than unconditionally,
- (c) on revoking an accommodation permit,
- (d) on suspending an accommodation permit,
- (e) on variation, other than by way of revocation of the conditions of any accommodation permit,

notify in writing within fourteen days thereafter the person applying for or to whom has been granted such accommodation permit of the reasons for such refusal, conditions, revocation, suspension or variation of conditions.

**[Period of validity of accommodation permits.**

**10.** (1) An accommodation permit shall, subject to subsections (2) and (3) –

- (a) be valid up to and including the last day of February next following the date it is granted, and

- (b) afterwards on being renewed under the provisions of section 11, be valid during the period commencing on the first day of March in any year and ending on the last day of February next following, both dates inclusive.

(2) The period of validity in subsection (1) is subject to the accommodation permit being granted for a lesser period or suspended or revoked under the provisions of this Law.

(3) The Committee may by regulations extend the period of validity of accommodation permits by regulations if it considers it expedient or necessary to do so.

(4) The Chief Pleas may by Ordinance amend the provisions of this section in such manner as they consider necessary or expedient in relation to providing for the period of validity of accommodation permits.]

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## **NOTES**

*Section 10 was substituted by the Tourism (Sark) (Amendment) Law, 2012, section 1(2), with effect from 29th August, 2012.<sup>1</sup>*

*The following Regulations have been made under section 10:*

*Tourism (Sark) (Accommodation Permits) Regulations, 2012.*

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## **[Renewal of accommodation permits.]**

**11.** (1) An accommodation permit may be renewed in any year by the Committee, for the period specified in subsection (1)(b) of section ten, upon an application for a renewal of a permit being made to it on or before the thirtieth day of November in the calendar year immediately preceding the date upon which the accommodation permit expires.

(2) The provisions of sections six, seven, eight and nine of this Law shall apply in relation to an application under subsection one as they apply in relation to an application for an accommodation permit under the provisions of section six.

(3) The Chief Pleas may by Ordinance amend the provisions of this section in such manner as they consider necessary or expedient in relation to providing for the procedure for the renewal of accommodation permits.]

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**NOTE**

*Section 11 was substituted by the Tourism (Sark) (Amendment) Law, 2012, section 1(3), with effect from 29th August, 2012.<sup>2</sup>*

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**Exhibition of accommodation permits.**

12. A copy of his current accommodation permit shall be exhibited at all times by the person to whom such permit is granted in the main entrance of each of the premises to which it is applicable in such manner as to bring it clearly to the notice of any person entering such premises by such entrance and, in the case of a site for camping, a copy of his current accommodation permit shall be exhibited in like manner in a prominent position at the main entrance to the site.

**Duplicate accommodation permits.**

13. If the person to whom an accommodation permit has been granted satisfies the Committee that his permit has been lost, destroyed or defaced, the Committee shall on payment to the Treasurer of a fee of fifty new pence or such other fee as the Chief Pleas may, from time to time, by Ordinance prescribe, issue to that person a duplicate accommodation permit and the duplicate so issued shall have the same effect as the original.

**Appeals.**

**14.** (1) An appeal shall lie to the Court from any refusal, revocation or suspension of an accommodation permit by the Committee or against the attachment by the Committee of any condition to such permit, or on any question of law or mixed law and fact, or on either of the following grounds –

- (i) that the Committee has in such refusal, revocation, suspension or variation of condition, acted in a manner contrary to natural justice, or
- (ii) that in considering whether or not so to refuse, revoke, or suspend, or whether and in what respect so to attach any condition, the Committee has considered matters other than those set out in section eight hereof or has failed to consider any of such matters.

(2) Notice of appeal under the provisions of the last preceding subsection shall be given by the appellant to the Greffier before the expiration of twenty-one days after the date on which the Committee have made known in writing to the appellant the decision appealed from.

(3) Any decision of the Court on an appeal under the provisions of this section shall be final.

(4) A decision of the Committee to revoke, vary or suspend an accommodation permit or to attach any condition to such permit shall not have effect until the expiration of twenty-one days after the date on which the Committee have made known their decision to the person concerned, or until an appeal under the provisions of this section against that decision has been determined by the Court, as the case may be.

**Classification and grading of premises and sites.**

15. (1) The Committee are empowered, from time to time, in respect of any premises or site for which an accommodation permit has been granted, to classify or grade these premises or site and shall notify the person to whom that accommodation permit has been granted in writing of that classification or that grading or both.

(2) In so classifying or grading any premises or site the Committee shall, in so far as may be applicable, take into account the nature of the sleeping accommodation provided, the nature and condition of the premises or site concerned, the household furniture, equipment and other amenities provided in relation to such premises or site.

(3) A person to whom an accommodation permit has been granted in respect of any premises shall not directly or indirectly advertise or describe those premises with intent, or in a manner likely, to deceive.

**Register of accommodation permits and of classification and grading of premises and sites.**

16. The Committee shall keep a register, in a book kept solely for that purpose, of all accommodation permits granted under section six of this Law and of any renewal, suspension, revocation or variation made in pursuance of any provisions of this Law in relation to any such permits and of any classification or grading in respect of any premises or site.

**Offences and penalties.**

17. (1) Any person acting in contravention of section five of this Law shall be guilty of a separate offence in respect of each person for whom sleeping accommodation is provided.

(2) Any person who with intent –

- (i) to obtain the grant of an accommodation permit,  
or
- (ii) to avoid the variation of any condition to an  
accommodation permit, or
- (iii) to avoid the revocation or suspension of an  
accommodation permit,

wilfully makes any statement which is false in a material particular to the Committee or to an Inspector appointed under this Law or who wilfully withholds from the Committee or from any such person material information shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding [level 1 on the Sark uniform scale] or to a term of imprisonment not exceeding one month or to both such fine and such term of imprisonment.

(3) Any person who publicly exhibits any notice or document which falsely purports to show that he has been granted an accommodation permit or which falsely purports to show that he has been granted an accommodation permit unconditionally or upon conditions more favourable to him than those which are attached to such permit shall be guilty of an offence.

(4) Any person wilfully obstructing an Inspector duly appointed under this Law in the exercise of the powers conferred upon him by this Law shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding [level 1 on the Sark uniform scale] or a term of imprisonment not exceeding one month or to both such fine and such term of imprisonment.

(5) Any person who contravenes any of the provisions of this Law



for which a penalty is not specifically provided shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding [level 1 on the Sark uniform scale].

(6) Where an offence for which any person is liable under this Law has been committed by an agent of that person, the agent, as well as that person, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Where an offence under this Law which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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**NOTE**

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

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**Powers of inspectors.**

**18.** (1) An Inspector is empowered, subject to the production to anyone reasonably demanding it of a certificate of his appointment, at all reasonable times to enter upon and inspect any premises or site in respect of which an accommodation permit has been applied for or has been granted.

(2) Where there is reasonable cause to believe any premises or site in respect of which an accommodation permit has not been granted are being used in contravention of the provisions of section five of this Law the Committee may by order in writing, signed by the Chairman or Vice-Chairman of the Committee,

authorise an Inspector at all reasonable times within seven days from the date of the order to enter upon and inspect any premises or site specified in the order for the purpose of ascertaining whether such premises or site are being so used.

**Power to make Ordinances relating to camping and for other purposes of this Law.**

19. The Chief Pleas may, from time to time, by Ordinance, make such provision as they deem necessary or expedient for regulating or prohibiting camping or the use of sites for camping and otherwise for the purpose of carrying out the provisions of this Law.

**[General provisions as to Ordinances and regulations.]**

20. (1) Any Ordinance or regulations under this Law –

- (a) may be amended or repealed by a subsequent Ordinance or regulations, as the case may be, hereunder, and
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to be necessary or expedient (including, without limitation, provision making consequential amendments to this Law and any other enactment).

(2) Any power conferred by this Law to make an Ordinance or regulations may be exercised –

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised –

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

(iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Any regulations made under this Law must be laid as soon as practicable before a meeting of the Chief Pleas; and if, at that or their next meeting, the Chief Pleas resolve to annul the regulations, they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.]

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**NOTE**

*Section 20 was substituted by the Tourism (Sark) (Amendment) Law, 2012, section 1(4), with effect from 29th August, 2012.*

*The following Ordinance has been made under section 20:*

*Tourism (Accommodation Permits) Fees) (Sark) Ordinance, 2021.*

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**Interpretation.**

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

following expressions have the meanings hereby respectively assigned to them, that is to say –

**"accommodation permit"** has the meaning assigned to it in section five of this Law and includes an accommodation permit renewed under the provisions of section eleven of this Law,

**"the Committee"** has the meaning assigned to it in section one of this Law,

**"the Court"** means the Court of the Seneschal,

[ **"the Douzaine"** means the Douzaine elected pursuant to section 43 of the Reform (Sark) Law, 2008<sup>\*\*</sup>,]

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

**"the Island"** means the Island of Sark and any of its Dependencies.

(2) The Interpretation (Guernsey) Law, 1948<sup>a</sup> shall apply to the interpretation of this Law as it applies to the interpretation of a Guernsey enactment.

(3) 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.

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<sup>\*\*</sup> Order in Council Nos. V, VI and XXVII of 2008; No. XIV of 2010; No. XII of 2011; the Reform (Sark) (Amendment) Law, 2014.

<sup>a</sup> Ordres en Conseil Vol. XIII, p. 355.

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## NOTES

*In section 21, the definition of the expression "the Douzaine" in subsection (1) was inserted by the Tourism (Sark) (Amendment) Law, 2014, section 5, with effect from 30th January, 2015.*

*The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.*

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## **Citation.**

**22.** This Law may be cited as the Tourism (Sark) Law, 1982.

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## NOTE

*In accordance with the provisions of the Tourism (Amendment) (Sark) Law, 1986, section 2(2), with effect from 3rd March, 1987, this Law, when cited together with the 1986 Law, may be cited as the "Tourism (Sark) Laws, 1982 and 1986".*

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## **Commencement.**

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

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## NOTE

*The Law was brought into force on 1st March, 1983 by the Tourism (Sark) Law, 1982 (Commencement) Ordinance, 1982, section 1.*

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<sup>1</sup> Prior to its substitution, section 10 was amended by the Tourism (Accommodation Permits) (Sark) Ordinance, 2011, section 1(2), with effect from 5th October, 2010.

<sup>2</sup> Prior to its substitution, section 10 was amended by the Tourism (Accommodation Permits) (Sark) Ordinance, 2011, section 1(3), with effect from 5th October, 2010.