

# ORDER IN COUNCIL

VI

ratifying a Projet de Loi

1961

ENTITLED

## **The Preservation of Natural Amenities and Agricultural Land Control (Sark) Law, 1961**

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(Registered on the Records of the Island of Guernsey  
on the 25th day of April, 1961.)

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1961.

## ORDER IN COUNCIL.



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 25th day of April, 1961, before Frank Gahan, Esquire, Q.C., Lieutenant-Bailiff; present:—Sir John Leale, William Robert Freake Clark, Esquire, Donald Carey Brock, Esquire, C.B.E., Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez, Bertram Guy Blampied, Esquires, Richard Edward Gibson, Esquire, O.B.E., Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., and Carl Edward Blad, Esquire, Jurats.*

The Lieutenant-Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 24th day of March, 1961, ratifying a *Projet de Loi* of the Chief Pleas of the Island of Sark entitled "The Preservation of Natural Amenities and Agricultural Land Control (Sark) Law, 1961",—the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Seneschal of Sark for registration on the records of that Island, of which Order in Council the tenor followeth:—

# At the Court at Buckingham Palace,

The 24th day of March, 1961.

PRESENT,

## The Queen's Most Excellent Majesty.

LORD PRESIDENT

EARL OF PERTH

LORD MILLS

CHANCELLOR OF THE DUCHY OF LANCASTER

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 6th day of March, 1961, in the words following, viz.:—

“YOUR MAJESTY, having been pleased, by Your General Order of Reference of the 22nd day of February, 1952, to refer unto this Committee the humble Petition of Jehanne E. Bell, Deputy Dame de Sercq, William Baker, Esquire, M.B.E., Seneschal, and Philip Guille, Esquire, Prévôt of the Island of Sark, setting forth:—

‘ 1. That, in pursuance of their Resolutions of the 20th day of April, 1960, and of the 5th day of October, 1960, the Chief Pleas of the Island of Sark at a meeting held on the 22nd day of November, 1960, approved a Bill or “Projet de Loi” entitled “The Preservation of Natural Amenities and Agricultural Land Control (Sark) Law, 1961”. 2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the Chief Pleas of Sark,

entitled "The Preservation of Natural Amenities and Agricultural Land Control (Sark) Law, 1961," and to order that the same shall have force of law in the Island of Sark.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Sark.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Bailiwick of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers, for the time being, in the said Bailiwick, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. AGNEW.



Projet de Loi referred to in the foregoing  
Order in Council.

## PROJET DE LOI

ENTITLED

### **The Preservation of Natural Amenities and Agricultural Land Control (Sark) Law, 1961**

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the twentieth day of April, nineteen hundred and sixty, and of the fifth day of October, nineteen hundred and sixty, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in this Island.

#### PART I

##### *Preservation of Natural Amenities and Agricultural Land Control Committee*

1. The Chief Pleas shall, in accordance with the succeeding provisions of this Part of this Law, appoint a Committee to be styled the Preservation of Natural Amenities and Agricultural Land Control 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. Appoint-  
ment of the  
Preservation  
of Natural  
Amenities  
and Agri-  
cultural  
Land  
Control  
Committee.
2. The Committee shall be constituted in such manner as the Chief Pleas may, from time to time, by Resolution direct save that at least one member thereof shall have experience in the agricultural industry. Constitution  
of Com-  
mittee.

## PART II

*Preservation of Natural Amenities*

Control by  
Ordinance of  
Preservation  
of natural  
beauty.

3. The Chief Pleas may, from time to time, by Ordinance make such provision as they may deem necessary or expedient for preserving the natural beauty of this Island, its aspect from the land and from the sea, the desirability of keeping the coasts of the Island in their natural state and for ensuring that movable and immovable structures when sited, erected, re-erected or structurally altered are not, because of their siting, exterior appearance or of the materials used in their construction, incongruous with their surroundings and, without prejudice to the generality of the foregoing, they may, from time to time, by Ordinance, in particular, provide for all or any of the following matters:—

- (a) the control of the siting, erection or re-erection of, or the exterior structural alteration to, any movable or immovable structure which is visible from any public or other place to which the public has access, or which, when sited, erected or re-erected, will be so visible;
- (b) the control of the siting, erection or re-erection of, or the exterior structural alteration to, any movable or immovable structure which is situated on the cliffs, or on the land adjacent to the foreshores of this Island;
- (c) the demolition in whole or in part of any wall, hedge, bank or fence which is visible from any public or other place to which the public has access;
- (d) the control of the outdoor exhibition of any sign (which expression shall include any poster, bill, notice, advertising banner or

flag) on or attached to the exterior of any movable or immovable structure, the placing of any such sign on any site and the painting of any such sign on any exterior surface of any movable or immovable structure where such sign so painted bears any reference to a commercial undertaking;

- (e) the control of the re-siting or the exterior decoration or re-decoration of any movable structure, or the removal of any such structure from any site in any case where, in the opinion of the Committee, its presence detracts from the amenities of the locality;
- (f) the removal of any refuse dump from any site where, in the opinion of the Committee, its presence is offensive or unsightly.

4. Unless the context otherwise requires, for the purposes of this Part of this Law the following expressions have the meanings hereby respectively assigned to them:—

Interpretation of Part II.

“immovable structure” means any building or structure of whatsoever material or in whatsoever manner constructed and whether permanent or temporary which is or on erection will become realty;

“movable structure” means any structure (not being an immovable structure and other than a marquee or a tent) which is intended for any one or more of the following uses, namely:—

- (a) for human habitation or for purposes ancillary thereto;
- (b) for housing animals or birds;
- (c) for the sale of refreshments;
- (d) as a store, shed, workshop, workplace or shelter;



“refuse dump” means a heap or collection of any organic matter (whether waste or dead animal), rubble, old metal, glass, china, earthenware, tin, cartons, paper or other rubbish whatsoever.

## PART III

### *Agricultural Land Control*

Control by  
Ordinance of  
development  
of agricul-  
tural land.

5. The Chief Pleas may, from time to time, by Ordinance make such provision as they may think necessary or expedient for controlling the development of agricultural land in this Island and, without prejudice to the generality of the foregoing, they may, from time to time, by Ordinance, in particular, provide for all or any of the following matters:—

- (a) the considerations to be taken into account by the Committee in deciding to grant any permission required, in accordance with the provisions of any such Ordinance, to carry out any development of agricultural land;
- (b) the control of the removal of any materials forming part of the surface or subsoil of any agricultural land and the restoration of such land as agricultural land;
- (c) such incidental and supplementary matters for which the Chief Pleas deem it necessary or expedient to provide.

Interpreta-  
tion of  
Part III.

6. Unless the context otherwise requires, for the purposes of this Part of this Law the following expressions have the meanings hereby respectively assigned to them:—

“agricultural land” means any land used or capable of being used for the purposes of any trade or business of dairy farming, the breeding, rearing

or maintenance of livestock, market gardening or the outdoor cultivation of flowers, bulbs or nursery stock, but does not include land used as a garden other than a market garden;

“appointed day” means the day appointed by the Chief Pleas in pursuance of the provisions of section seventeen of this Law as the day on which this Part of this Law shall come into force;

“development” means the carrying out of building, engineering, mining or other operations in, on, over or under agricultural land, but does not include the repair or replacement of buildings, the laying down, lifting or repairing of cables, wires, drains or water, gas or other pipes or the sinking of bore holes and wells for water.

## PART IV

### *General*

7. Any preliminary declaration, permission, permit or licence given or issued under the provisions of this Law or of any Ordinance made hereunder shall remain valid for one year from the date on which it was given or issued.

Period of validity of declarations, permissions, permits or licences.

8. A person who desires to carry out any operation or development which is controlled by an Ordinance made under the provisions of this Law may, before making an application to the Committee in that behalf, apply to the Committee for a preliminary declaration as to whether, in principle, the Committee, on the submission to it of information or detailed plans or both, as the Committee may require of the proposed operation or development, would be likely to grant permission in pursuance of the provisions of an Ordinance as aforesaid.

Applications for preliminary declaration.

Prescription  
of penalties  
by Ordinance.

9. The Chief Pleas may, from time to time, by Ordinance prescribe the penalties which shall be incurred by any person who contravenes or attempts to contravene or fails to comply with the provisions of any Ordinance made under the provisions of this Law or any conditions attached by the Committee to any permission granted to undertake any of the operations mentioned in section three hereof and any development mentioned in section five hereof.

No compensation  
for refusal  
to grant  
permission.

10. In the event of the Committee refusing to grant an application under the provisions of any Ordinance made under the provisions of this Law, no compensation shall be payable by the Chief Pleas for any loss suffered by the applicant for such permission or any other person by reason of such refusal.

Service of  
notices.

11. Any notice which may be served for the purposes of this Law or of any Ordinance made hereunder shall be validly served:—

- (a) on any person, if delivered to him, left, or sent by post addressed 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 post to, the principal or last known principal place of business of the firm;
- (c) on any body corporate, if sent by post to its registered office or if left at, or sent by post to, its principal or last known principal place of business.

Appeals.

12. (1) Subject to the provisions of this section, any person aggrieved by any decision of the Committee under any of the provisions of this Law or of any Ordinance made hereunder may appeal therefrom to a tribunal (hereinafter referred to as "the tribunal")

which shall be constituted in such manner as the Chief Pleas may, from time to time, by Ordinance direct and of which the members shall, from time to time, be appointed by the Chief Pleas by Resolution either generally or in respect of a particular appeal.

(2) A person may appeal to the tribunal under the provisions of the last preceding subsection on the grounds that the decision of the Committee was ultra vires or was an unreasonable exercise of its powers and any such appeal shall be instituted before the expiration of a period of six months commencing on the day on which notice of such decision was served on that person.

(3) An appeal under the provisions of subsection (1) of this section shall be instituted by way of a summons served on the President of the Committee to show cause why the decision appealed from should not be set aside or varied.

(4) On any appeal under the provisions of subsection (1) of this section the burden of satisfying the tribunal that the decision of the Committee which is the subject of the appeal is intra vires or reasonable shall be discharged by the Committee and the appellant shall be entitled to a final right of reply.

(5) The tribunal may, in such manner as shall be directed by Order of the Royal Court, refer to the Royal Court sitting as a Full Court (hereinafter referred to as "the Royal Court") for decision any question arising in connection with the determination of an appeal by the tribunal under the provisions of this section and certified as a question of law by Her Majesty's Attorney General.

(6) Any person aggrieved by a decision of the tribunal on any question of law may appeal from

that decision to the Royal Court in such manner and within such period as shall be directed by Order of the Royal Court.

(7) A decision of the Committee or of the tribunal, as the case may be, on any question in respect of which there has been no appeal under the provisions of this section, shall be final and conclusive.

Powers of  
Committee  
to visit sites.

13. In the exercise of its powers under this Law or of any Ordinance made hereunder the Committee may, for the purposes of arriving at any decision, visit any site, and no application under this Law or of any Ordinance made hereunder shall be refused by the Committee until it has first visited the site concerned.

Chief Pleas  
not bound  
by this Law.

14. Nothing in this Law contained or in any Ordinance made hereunder shall be taken to apply to the Chief Pleas or to any servant or agent of the Chief Pleas when acting for or on behalf of the Chief Pleas within the course of their employment or agency.

Interpreta-  
tion.

15. The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of this Law as it applies to the interpretation of an enactment in force in the Island of Guernsey.

Citation.

16. This Law may be cited as the Natural Amenities and Land Control Law, 1961.

Commence-  
ment.

17. This Law shall come into operation on such date as the Chief Pleas may by Ordinance appoint and any such Ordinance may provide different dates as respects different provisions of this Law.

R. H. VIDELO,

Her Majesty's Greffier.