

# PROJET DE LOI

ENTITLED

## **The Evictions (Stay of Execution) (Sark) Law, 2019 \***

*[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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\* No. VIII of 2020.

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### ARRANGEMENT OF SECTIONS

1. Discretion to suspend execution.
2. Matters to be taken into consideration.
3. Variation of order suspending execution.
4. Interpretation.
5. Transitional provisions.
6. Citation.
7. Commencement.

## **The Evictions (Stay of Execution) (Sark) Law, 2019**

**THE CHIEF PLEAS OF SARK**, in pursuance of their Resolutions of the 11<sup>th</sup> April, 2018 and 3<sup>rd</sup> July, 2019, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in Sark.

### **Discretion to suspend execution.**

1. (1) Subject to subsection (2), where proceedings for eviction are brought against an occupier of premises ("**the premises**"), the Court may, on making an order for eviction, having taken into consideration the position of the parties and all the circumstances of the case including the matters set out in section 2, suspend execution of the said order during such period, and subject to such conditions, as the Court thinks fit.

(2) Subsection (1) does not apply to proceedings against an occupier whose occupation of the premises is, and was at its inception, unlawful.

(3) For the avoidance of doubt, "**premises**" in subsection (1) refers to all premises whatsoever, whether buildings or land, including residential and other domestic and non-commercial premises and premises used for the purposes of a business, trade or undertaking.

### **Matters to be taken into consideration.**

2. (1) In considering whether to exercise its discretion to suspend execution of an eviction order and, if so, the period for which, and the conditions subject to which, such execution should be suspended, the Court must take into account such of the following matters as may appear to the Court to be relevant in the circumstances of the case –

(a) whether the occupier has failed to pay rent in

accordance with, or has breached or failed to comply with any other covenant of, the lease or agreement governing the terms of occupation of the premises,

- (b) whether suitable alternative accommodation is available for the occupier, or will be so available when the eviction order takes effect,
- (c) whether the occupier, or any person residing or lodging with the occupier, has been guilty of conduct which is a nuisance or annoyance to the landlord or to a person residing, visiting or otherwise engaging in a lawful activity in the locality,
- (d) whether the condition of the premises has, in the opinion of the Court, deteriorated owing to the act, neglect or default of the occupier or of any person residing or lodging with the occupier; and where such person is a sub-tenant or licensee of such occupier, whether alone or jointly with any other person, whether the Court is satisfied that such occupier has not, before the making of the order in question, taken such steps as ought reasonably have been taken for the removal of the sub-tenant or licensee, as the case may be,
- (e) whether the occupier has been convicted of using the premises, or allowing them to be used, for immoral or illegal purposes,
- (f) whether the occupier has given notice to quit and, in consequence of that notice, the landlord has contracted

to sell or let the premises or has taken any other steps as the result of which the landlord would, in the opinion of the Court, be seriously prejudiced if possession could not be obtained,

- (g) whether the premises are reasonably required by the landlord as residential accommodation for the landlord or for a member of the landlord's family,
- (h) whether the premises comprise or include premises licensed for the sale of intoxicating liquor and the occupier, being the licensee of such premises, has committed an offence under the Liquor Licensing (General Provisions) (Sark) Ordinance, 1979<sup>a</sup>, or has not conducted the premises to the satisfaction of the Court,
- (i) whether the premises are so overcrowded as to be dangerous or injurious to the health of the occupants, and the Court is satisfied that the overcrowding could have been abated by the removal of any sub-tenant or licensee whom it would in all the circumstances of the case, including the question whether alternative accommodation was available, have been reasonable to remove, and the occupier has not taken steps which should reasonably have been taken for removal of such person, and

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<sup>a</sup> Ordinance No. 57; amended by Ordinances Nos. 62; 65; 76B; 86; 103; 107; 145; No. IV of 2016.

- (j) whether the state or condition of the premises is such that the Court is satisfied that they are unfit for human habitation.

(2) The Chief Pleas may by Ordinance amend subsection (1) so as to add to, remove or amend any of the matters to be taken into consideration under that subsection.

**Variation of order suspending execution.**

3. Where the Court has made an order under section 1 ("**the said order**") suspending execution of an order for eviction, it may at any time thereafter, on application by the landlord or the occupier, and on being satisfied that a material change of circumstances has occurred since the making of the said order (including, for the avoidance of doubt, the failure of any person to comply with the conditions subject to which the suspension was granted), vary the said order as it thinks fit.

**Interpretation.**

4. In this Law –

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

**"covenant"** includes condition and agreement,

**"landlord"** means the person bringing proceedings for eviction against the occupier,

**"occupier"** means a person in occupation of or using the premises, whether alone or jointly with any other person, and includes a tenant or sub-tenant (or former tenant or sub-tenant),

**"the premises"**: see section 1.

**Transitional provisions.**

5. (1) Subject to subsection (2), this Law applies to proceedings for eviction instituted on or after the date of commencement.

(2) Notwithstanding subsection (1), the Court may make such orders in respect of proceedings instituted, but not disposed of, before the date of commencement as it thinks just.

**Citation.**

6. This Law may be cited as the Evictions (Stay of Execution) (Sark) Law, 2019.

**Commencement.**

7. This Law shall come into force on the day appointed by Ordinance of the Chief Pleas; and different dates may be appointed for different provisions and for different purposes.

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**NOTE**

*The Law was brought into force on 30th November, 2020 by the Evictions (Stay of Execution) (Sark) Law, 2019 (Commencement) Ordinance, 2020, section 1.*

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