

# ORDER IN COUNCIL

VII  
2020

ratifying a Projet de Loi

ENTITLED

## The Land Reform (Sark) Law, 2019

(Registered on the Records of the Island of Guernsey on the 6th  
April, 2020.)



2020

# ORDER IN COUNCIL



## IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 6th day of April, 2020 before Richard James McMahon, Esquire, Deputy Bailiff; present:- Stephen Murray Jones, Esquire, O.B.E., Terry John Ferbrache, Alan Stevenson Boyle, Peter Francis Gill and David John Robilliard, Esquires, Marilyn Jasmine King, Tina Jane Le Poidevin, and Paul Martin Burnard, Esquire, Jurats.

The Deputy Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 11th March 2020, approving and ratifying a Projet de Loi of the Chief Pleas entitled “The Land Reform (Sark) Law, 2019”. THE COURT, after the reading of the said Order in Council, ORDERED

1. That the said Order in Council be registered on the records of this Island;  
and
2. That an extract of this present Act, together with a copy of the said Order be sent by Her Majesty’s Greffier to the Sénéchal of Sark for registration on the records of that Island.

J TORODE  
Her Majesty’s Greffier



*At the Court at Buckingham Palace*

THE 11th DAY OF MARCH 2020

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY  
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“In accordance with Your Majesty’s General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the Chief Pleas of the Island of Sark:

“That, in pursuance of their Resolution of 11th April 2018, the Chief Pleas of the Island of Sark at a meeting on 1st May 2019 approved a *Projet de Loi* entitled the Land Reform (Sark) Law, 2019. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Land Reform (Sark) Law, 2019, and to order that it shall have force of law in the Island of Sark.

“The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it.”

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Island of Sark and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty’s Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty’s Order and to proceed accordingly.

*Richard Tilbrook*

# PROJET DE LOI

ENTITLED

## **The Land Reform (Sark) Law, 2019**

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

### **Division of real property.**

1. (1) Notwithstanding the provisions of the 1611 Letters Patent, it shall be lawful for the owner of a tenement or a freehold to divide such tenement or freehold and to dispose of any portion thereof, whether –

- (a) by transaction inter vivos, or
- (b) by will, in accordance with sections 6, 7 and 8 of the Real Property (Succession) (Sark) Law, 1999<sup>a</sup>.

(2) The Chief Pleas may by Ordinance make such provision as they think fit for the purpose of giving effect to subsection (1), including (without limitation) any provision –

- (a) facilitating and evidencing the identification of any portion of a tenement or freehold resulting from the

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<sup>a</sup> Ordres en Conseil Vol. XXXIX, p. 351; amended by Order in Council No. V of 2008.

division of such tenement or freehold in accordance with subsection (1), and

- (b) necessary for the purpose of facilitating the provision of any services, and the grant or reservation of any rights of way or other servitudes, for the benefit of each portion of land resulting from such division.

**Charging of interests in real property.**

2. (1) Notwithstanding the provisions of the 1611 Letters Patent, subject to the following provisions of this section and the provisions of any Ordinance made under subsection (3), it shall be lawful for the owner of a tenement or a freehold to charge, or cause or permit to be charged, such tenement or freehold by way of *obligation* registered at the Greffe.

(2) Nothing in subsection (1) shall affect the prohibition in the 1611 Letters Patent against the creation of a rente, however described, which is an interest in real property ("*immeuble*").

(3) The Chief Pleas may by Ordinance make such provision as they think fit for the purpose of giving effect to the charging of real property under this section including (without limitation) provision for, or concerning, the following matters –

- (a) the circumstances in which, the purposes for which, and the conditions and formalities subject to which, real property may be charged,
- (b) the establishment and maintenance by the Greffier of a

Register of Obligations for the purpose of recording charges created against real property,

and such Ordinance may for this purpose revoke, amend, extend, adapt, modify or disapply (so far as it has effect in Sark) any enactment or rule of customary law.

(4) In this section "**charge**" includes secure, encumber, mortgage and hypothecate.

(5) Nothing in this section, or in any Ordinance made under this section, is to be construed as, of itself, rendering unlawful or ineffective any arrangement entered into before the commencement of this section.

### **Saisie proceedings.**

3. (1) The Chief Pleas may by Ordinance make such provision as they think fit for the purpose of facilitating the enforcement of judgments against real property including (without limitation) –

- (a) the circumstances in which judgment may be executed against the real property of a judgment debtor,
- (b) the procedures ("saisie proceedings") and formalities necessary for the purpose of such execution,

and, subject to subsection (2), such Ordinance may for this purpose revoke (in its application to Sark) and re-enact, with such modifications as they may think fit, the

Saisie Procedure (Simplification) (Bailiwick) Order, 1952<sup>b</sup> ("**the 1952 Order**"); and may revoke, amend, extend, adapt, modify or dis-apply (so far as it has effect in Sark) any other enactment or rule of customary law.

(2) Where any Ordinance proposed to be made under subsection (1) includes provision revoking, amending, extending, adapting, modifying or dis-applying (in its application to Sark) the 1952 Order, or any other Order of the Royal Court, the Royal Court must consent to the inclusion of such provision prior to the Ordinance being submitted for approval to the Chief Pleas.

**Amendment of 1999 Law.**

4. The Real Property (Succession) (Sark) Law, 1999 ("**the 1999 Law**") is amended as follows.

5. Section 1 of the 1999 Law is repealed.

6. In section 6 of the 1999 Law –

(a) in subsection (1), immediately after the words "give the property" insert ", or any portion thereof,"

(b) in subsection (2), immediately after the words "any one or more of the properties" insert ", or any portion or portions thereof,".

7. In section 7 of the 1999 Law –

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<sup>b</sup> Order of the Royal Court No. III of 1952; amended by Ordres en Conseil Vol. XXII p. 560; O.R.C. No. I of 1960; No. III of 1973; No. III of 1982; No. XIV of 1989; No. I of 1995.

- (a) in subsection (1), immediately after the words "give the property" insert ", or any portion or portions thereof,"
- (b) in subsection (2), immediately after the words "any one or more of the properties" insert ", or any portion or portions thereof,".

8. In section 8(1)(a) of the 1999 Law, immediately after the words "any one or more of the properties" insert ", or any portion or portions thereof,".

9. In section 11(4) of the 1999 Law, immediately after "property" –

- (a) in the first place where it appears, insert ", or any portion thereof",
- (b) in the second place where it appears, insert ", or portion thereof,".

10. In section 18(1) of the 1999 Law -

- (a) in the definition of "**freehold**", after paragraph (d), insert –

"but includes, for the avoidance of doubt, any real property formerly forming part of a tenement or freehold which tenement or freehold has been divided pursuant to the provisions of the Land Reform (Sark) Law, 2019 or by will pursuant to section 6, 7 or 8 of this Law,"



- (b) in the definition of "**tenement**", delete "the Chief Pleas" in the second place where it occurs.

### **Repeal.**

11. Section 11(2) of the Real Property (Transfer Tax, Charging and Related Provisions) (Sark) Law, 2007<sup>c</sup> is repealed.

### **Interpretation.**

12. In this Law -

"**1611 Letters Patent**" means the Letters made Patent by King James I of England on 12th August, 1611,

"**the 1999 Law**" means the Real Property (Succession) (Sark) Law, 1999,

"**freehold**" has the meaning given in section 18 of the 1999 Law,

"**real property**", except in section 2(2), means a tenement or freehold,

"**Royal Court**" means the Royal Court of Guernsey.

### **Citation.**

13. This Law may be cited as the Land Reform (Sark) Law, 2019.

### **Commencement.**

14. This Law shall come into force on the day appointed by Ordinance of

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<sup>c</sup> Order in Council No. VI of 2008; amended by No. XXIII of 2010.

the Chief Pleas; and different dates may be appointed for different provisions and for different purposes.