

PROJET DE LOI

ENTITLED

The Housing (Temporary Provisions) (Sark) Law, 1976 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. 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. 59; as amended by the Housing (Temporary Provisions) (Extension) (Sark) Law, 1981 (Ordres en Conseil Vol. XXVII, p. 291); the Housing (Temporary Provisions) (Amendment) (Sark) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 349); the Uniform Scale of Fines (Sark) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 320); the Housing (Extension) (Sark) Law, 1991 (No. II of 1991, Ordres en Conseil Vol. XXXIII, p. 77); the Housing (Extension) (Sark) Law, 2000 (No. V of 2001, Ordres en Conseil Vol. XLI, p. 165); the Housing (Extension) (Sark) Law, 2011 (No. X of 2011). 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); the Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1990. This Law is repealed by the Housing (Control of Occupation) (Sark) Law, 2011 (No. IV of 2013).

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The Housing (Temporary Provisions) (Sark) Law, 1976

ARRANGEMENT OF SECTIONS

1. Control of erection of dwelling houses.
2. Control of occupation of dwelling houses erected after the appointed day.
3. Powers of Constable and Vingtenier to enter dwelling houses etc.
4. False statements etc.
5. Interpretation.
6. Citation, commencement and duration.

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The Housing (Temporary Provisions) (Sark) Law, 1976

THE CHIEF PLEAS OF SARK, in pursuance of their Resolution of the first day of October, nineteen hundred and seventy-five, and their Resolution of the eighteenth day of June, nineteen hundred and seventy-six, 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.

Control of erection of dwelling houses.

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, the Preservation of Natural Amenities and Agricultural Land Control Committee constituted under that Law (hereafter in this section referred to as "**the Committee**") shall not, on or after the appointed day, grant any permission or preliminary declaration under the Law of 1961 or any Ordinance made thereunder to any person in respect of the erection of a dwelling house unless that person –

- (a) has been continuously ordinarily resident in the Island for a period of at least [fifteen] consecutive years,
- (b) is ordinarily resident in the Island and is the spouse or surviving spouse of a person who is, or was, of the

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

description set out in paragraph (a) of this subsection,
or

- (c) is a person of such other description as the Chief Pleas may from time to time by Ordinance prescribe.

(2) Where a person has been granted before the appointed day any permission or preliminary declaration under the Law of 1961 or any Ordinance made thereunder in respect of the erection of any dwelling house on any site, the provisions of subsection (1) of this section shall not apply so as to prohibit the grant to that person on or after the appointed day of any permission or preliminary declaration under the Law of 1961 or any Ordinance made thereunder in respect of the erection of a dwelling house on the same or substantially the same site.

(3) The Committee may require any person applying for any permission or preliminary declaration under the Law of 1961 or any Ordinance made thereunder to furnish to the Committee such information and to produce such documents as the Committee deems necessary for the purpose of ascertaining whether or not that person is a person in respect of whom the grant of such permission or preliminary declaration, as the case may be, is prohibited under the provisions of subsection (1) of this section.

[(4) The provisions of subsection (1) of this section shall not apply in relation to any alteration or extension to a dwelling-house, or to the re-erection of a dwelling-house within the same curtilage.]

NOTES

In section 1, first, the word in square brackets in paragraph (a) of subsection (1) and, second, subsection (4) were substituted by the Housing (Temporary Provisions) (Amendment) (Sark) Law, 1986, respectively section 1(a) and section 1(b), with effect from 16th December, 1986, subject to the savings in section 2 of the 1986 Law.

The following Ordinances have been made under section 1:

Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1989;

Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1990.

In accordance with the provisions of the Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1989, section 1, with effect from 10th March, 1989, any person –

- (a) who has been ordinarily resident in the Island for periods amounting in the aggregate to at least 15 years; or*
- (b) who is ordinarily resident in the Island and is the spouse or surviving spouse of a person who is, or was, of the description set out in paragraph (a),*

is hereby declared to be a person of a prescribed description for the purposes of paragraph (c) of subsection (1) of this section.

In accordance with the provisions of the Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1990, section 1, with effect from 3rd October, 1990, the Trustees for the Bailiwick of Guernsey Methodist Church Purposes (as established by the Methodist Church (Bailiwick of Guernsey) Law, 1987, are thereby declared to be persons of a prescribed description for the purposes of paragraph (c) of subsection (1) of this section.

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 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.

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 Housing (Temporary Provisions) (Amendment) (Sark) Law, 1986, section 3(2), this Law, when cited together with the amending Laws (the Housing (Temporary Provisions) (Extension) (Sark) Law, 1981 and the 1986 Law), may be cited as the "Housing (Temporary Provisions) (Sark) Laws, 1976 to 1986".

This Law is provisionally repealed by the Housing (Control of Occupation)

(Sark) Law, 2011.

Control of occupation of dwelling houses erected after the appointed day.

2. (1) A person shall not occupy a dwelling house the erection of which commenced on or after the appointed day unless –

- (a) he is a person of the description set out in paragraph (a) or paragraph (b) of subsection (1) of section one of this Law,
- (b) he has acquired (whether alone or jointly with another) any interest in that dwelling house by will or by operation of law,
- (c) the dwelling house has been erected under and in accordance with any permission granted to him under [the Law of 1961, this Law or any Ordinance made under either said Law],
- (d) he is a member of the household of a person referred to in any of the foregoing paragraphs of this subsection,
- (e) he is being provided in that dwelling house with board and lodging (whether for reward or otherwise) by any other person, being a person in lawful occupation of that dwelling house, or
- (f) he is a person of any such description as the Chief Pleas may from time to time by Ordinance prescribe.

(2) Any person who contravenes the provisions of subsection (1)

of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 4 on the Sark uniform scale] and, in the case of a continuing offence, to a further fine not exceeding fifty pounds for each day during which the offence continues after conviction.

(3) Any person, who, being for the time being entitled to the possession of a dwelling house (whether alone or jointly with another), suffers or permits any other person to occupy that dwelling house in contravention of the provisions of subsection (1) of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 4 on the Sark uniform scale] and, in the case of a continuing offence, to a further fine not exceeding fifty pounds for each day which the offence continues after conviction:

Provided that in any proceedings for an offence under this subsection it shall be a defence for the accused to prove that he had reason to believe that that other person was not prohibited under the said subsection (1) from occupying that dwelling house.

NOTES

In section 2,

the words in square brackets in paragraph (c) of subsection (1) were substituted by the Housing (Temporary Provisions) (Amendment) (Sark) Law, 1986, section 1(c), with effect from 16th December, 1986, subject to the savings in section 2 of the 1986 Law;

the words and figures in square brackets in subsection (2) and subsection (3) were substituted by the Uniform Scale of Fines (Sark) Law, 1989, section 2(2), with effect from 1st November, 1989.

The following Ordinances have been made under section 2:

Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1978;

Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1989;

Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1990.

In accordance with the provisions of the Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1978, section 1, with effect from 14th February, 1978, a person who is the owner of the tenement on which the dwelling house concerned is situate or is the owner of an estate of inheritance (commonly known as "freehold") in the land on which the dwelling house concerned is situate, shall be a person within the meaning of paragraph (f) of subsection (1) of this section.

In accordance with the provisions of the Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1989, section 2, with effect from 10th March, 1989, any person –

- (a) who is for the time being employed in a professional capacity by the Chief Pleas;*
- (b) who has been ordinarily resident in the Island for periods amounting in the aggregate to at least 15 years;*
- (c) who is ordinarily resident in the Island and is the spouse or surviving spouse of a person who is, or was, of the description set out in paragraph (b); or*
- (d) is a member of the household of a person referred to in paragraphs (a), (b) or (c),*

is hereby declared to be a person of a prescribed description for the purposes of paragraph (f) of subsection (1) of this section.

In accordance with the provisions of the Housing (Temporary Provisions) (Prescribed Persons) Ordinance, 1990, section 2, with effect from 3rd October, 1990, any person who is for the time being, under the direction of the Superintendent Minister of the Bailiwick of Guernsey Circuit of the Methodist Church, fulfilling the offices and duties required of a Methodist Minister within the Island of Sark, or who is a member of the household of any such person is thereby declared to be a person of a prescribed description for the purposes of paragraph (f) of subsection (1) of this section.

Powers of Constable and Vingtenier to enter dwelling houses etc.

3. (1) If the Seneschal or Deputy Seneschal is satisfied by information on oath that there is reasonable ground for suspecting that any person is occupying a dwelling house in contravention of the provisions of subsection (1) of the last foregoing section, he may grant a warrant authorising the Constable, Vingtenier or an officer of police to enter and inspect that dwelling house at any reasonable time within one month from the date of the warrant, and to make such examination and

inquiry, and require any person whom he finds in that dwelling house to give such information and produce such documents, as may be necessary in order to ascertain whether or not the provisions of that subsection are being contravened as respects the occupation of that dwelling house by any person.

(2) Any person who –

- (a) obstructs the Constable, Vingtenier or an officer of police in the exercise of any of his powers under subsection (1) of this section, or
- (b) refuses, or without reasonable excuse, fails to comply with any requisition of the Constable, Vingtenier or an officer of police under that subsection,

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

(3) A person shall not be required under subsection (1) of this section to answer any questions or to give any evidence tending to incriminate him.

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.

False statements etc.

4. (1) If any person, for the purpose of evading any prohibition under this Law or for any other purpose connected with this Law –

- (a) knowingly makes any false statement or false

representation, or

- (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,

he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 4 on the Sark uniform scale] or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(2) The court by which a person is convicted of an offence under subsection (1) of this section may, if it is satisfied that any permission or preliminary declaration granted to him under the Law of 1961 or any Ordinance made thereunder would not have been granted if such false statement or representation had not been made, or such document or information had not been produced or furnished, as the case may be, order that the permission or preliminary declaration shall be of no effect; and upon the making of such an order the provisions of this Law, the Law of 1961 and any Ordinance made thereunder shall have effect in all respects as if the permission or preliminary declaration, as the case may be, had not been granted.

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.

Interpretation.

5. (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 –

"appointed day" means the day on which this Law shall come into

force in pursuance of the provisions of subsection (2) of the next following section,

"dwelling house" means any premises, or any part of any premises, wholly or principally used or intended to be used for the purposes of human habitation, but does not include –

- (a) any such premises as are used or intended to be used principally for the purpose of providing board and lodging for reward for ten or more persons, or
- (b) any such premises as are used or intended to be used principally for the purpose of providing sleeping accommodation for any persons employed under a contract of service in premises of the description set out in the foregoing paragraph and as are, or will be, within the curtilage of premises of that description,

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

(2) Except where the context otherwise requires, any reference in this Law to any other enactment includes a reference to that enactment as amended, repealed or replaced by or under any other enactment.

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

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

NOTE

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, commencement and duration.

6. (1) This Law may be cited as the Housing (Temporary Provisions) (Sark) Law, 1976.

(2) This Law shall come into force immediately following the day on which the Building Control (Temporary Provisions) (Sark) Law, 1974^c, as continued in force, shall cease to have effect.

(3) This Law shall remain in force until the thirty-first day of December, [2014], or such earlier date as the Chief Pleas may by Ordinance appoint.

NOTES

The Building Control (Temporary Provisions) (Sark) Law, 1974, as continued in force by the Building Control (Temporary Provisions) (Sark) Law, 1974 (Continuation) (No. 2) Ordinance, 1975, ceased to have effect on 26th August, 1976 and, consequently, this Law came into force on that date.

In section 6, the date in square brackets in subsection (3) was substituted by the Housing (Extension) (Sark) Law, 2011, section 1, with effect from 2nd August, 2011.¹

^c Ordres en Conseil No. X of 1974.

¹ Section 6(3) was previously amended by the Housing (Temporary Provisions) (Extension) (Sark) Law, 1981, section 1, with effect from 17th March, 1981; the Housing (Extension) (Sark) Law, 1991, section 1, with effect from 21st May, 1991; the Housing (Extension) (Sark) Law, 2000, section 1, with effect from 6th March, 2001.