

ORDER IN COUNCIL

II
2018

ratifying a Projet de Loi

ENTITLED

The Reform (Sark) (Amendment) Law, 2017

(Registered on the Records of the Island of Guernsey
on the 15th January, 2018.)



2018

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 15th day of January, 2018 before Sir Richard Collas, Bailiff; present:- Stephen Murray Jones, David Percy Langley Hodgetts LVO, Niall David McCathie, Esquires, Margaret Ann Spaargaren, David Allan Grut, Jonathan Grenfell Hooley, David James Mortimer, Alan Stevenson Boyle, Peter Francis Gill, Esquires, Jurats.

The Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 13th December, 2017, approving and ratifying a Project de Loi of the Chief Pleas of Sark entitled “Reform (Sark) (Amendment) Law, 2017”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, 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 S n schal of Sark for registration on the records of that Island.

J. TORODE
Her Majesty’s Greffier.



At the Court at Buckingham Palace

THE 13th DAY OF DECEMBER 2017

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 4th October 2017 the Chief Pleas of the Island of Sark at a meeting on 4th October 2017 approved a *Projet de Loi* entitled the Reform (Sark) (Amendment) Law, 2017. 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 Reform (Sark) (Amendment) Law, 2017, 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.

Ceri King

PROJET DE LOI

ENTITLED

The Reform (Sark) (Amendment) Law, 2017

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the 5th day of July 2017, the 23rd day of August 2017 and the 4th day of October 2017, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in Sark.

Amendments to 2008 Law.

1. The Reform (Sark) Law, 2008^a (the "**principal Law**") is amended as follows.

2. In the Arrangement of sections, for the entry "23. Times of election and tenure of office.", substitute –

"23. General elections.

23A. By-elections."

3. In section 21 –

(a) in subsection (1)(c), for "twenty-four" substitute "eighteen", and

^a Order in Council No. V of 2008; amended by Nos. VI and XXVII of 2008; No. XIV of 2010; No. XII of 2011; No. XI of 2014; No. IX of 2016; Ordinances Nos. II and VI of 2015; Ordinance No. XI of 2017.

- (b) in subsection (5), immediately after "subsection (1)(c)" insert ", and such Ordinance may make provision for any incidental, consequential, supplementary and transitional matters which the Chief Pleas consider necessary or expedient for the purpose of implementing such variation".

4. For section 23, substitute –

"General elections.

23. (1) A general election for the purpose of electing one half of the total number of Conseillers specified in section 21(1)(c), as varied from time to time, shall be held on such date in every second year as the Chief Pleas by Ordinance shall appoint.

(2) A Conseiller elected at a general election shall, subject to the provisions of this Law, hold office –

- (a) from such date after the general election as the Chief Pleas may by Ordinance appoint, and
- (b) until such date, in the fourth year after the date appointed for the purpose of paragraph (a), as the Chief Pleas may by Ordinance appoint,

provided that the Chief Pleas may by Ordinance vary the date appointed for the purpose of paragraph (b), to a different date in the fourth year after the date appointed for the purpose of paragraph (a), should they deem it

expedient to do so.

(3) Where, at the date of the publication of the nominations prior to a general election, there exist any vacancies amongst the Conseillers, such vacancies shall be added to the number of vacancies available to be filled at that election; and in such a case the period of office to be served by each elected Candidate shall be determined in accordance with section 25(2).

By-elections.

23A. (1) Subject to subsection (2), upon the occurrence of a casual vacancy amongst the Conseillers, a by-election shall be held on such date, not later than six months after the occurrence of the vacancy, as the Chief Pleas shall by Ordinance appoint.

(2) Where a casual vacancy occurs after 30th June in any year in which a general election is to be held pursuant to section 23(1), it shall be in the discretion of the Speaker whether or not a by-election should be held to fill that vacancy unless the vacancy has left the Chief Pleas without the quorum required by section 36(2).

(3) A Conseiller elected at a by-election shall, subject to the provisions of this Law, hold office until the date when the term of office in relation to the vacancy would have expired had it not become vacant.

(4) Where a by-election is held for the purpose of filling more than one vacancy, and the terms of office remaining in respect of such vacancies are different, the successful candidates who receive the largest numbers of votes shall be declared elected to fill the vacancies with the longer

period of office remaining and the remaining successful candidates shall be declared elected to fill the other vacancies.

(5) If, at a by-election, there is an equal number of votes for two or more successful candidates such that their respective terms of office cannot otherwise be determined, the period of office to be served by each such candidate shall be determined by lots drawn by those candidates under the supervision of the returning officer immediately after the declaration of the result of the by-election."

5. In section 25(2) –

- (a) for "section 23(11)" substitute ""section 23(3)", and
- (b) in paragraph (a), and in subparagraphs (c)(i) and (ii), for the words "to replace those Conseillers whose terms of office are due to expire" substitute "for the purposes of section 23(1)".

6. In section 29(6) –

- (a) immediately after the words "as the Chief Pleas may by Ordinance appoint," insert –

"and shall not reopen until –

- (a) subject to paragraph (c), the day following the election, or

(b) where, in accordance with section 25(3) (due to the number of candidates not exceeding the number of vacancies to be filled), the returning officer declares the candidates to be elected without an election being held, the day following such declaration, or

(c) where a further election is required under section 25(5) (in the event of an equality of votes), the day after such further election," and

(b) for the words "beginning on the date of closure and ending on the date of the election", substitute "of such closure".

7. In section 56(1), for "President" substitute "Speaker".

8. In section 65(1) –

(a) for the definition of "**by-election**", substitute –

""**by-election**" means an election to fill any vacancies amongst the Conseillers held under section 23A or 25(4)," and

(b) in the definition of "**general election**", for "or to be held on a day appointed under section 23(1) or (7)", substitute "under section 23".

Savings and transitional provisions.

9. (1) For the avoidance of doubt, the Conseillers in office at the date of registration of this Law whose term of office, pursuant to section 3 of the Reform (General Election) (Sark) Ordinance, 2016^b, is due to expire on 14th January, 2021 shall, subject to the provisions of the principal Law and any variation of the said date of expiry, continue in office until that date.

(2) Notwithstanding the provisions of section 23(1) of the principal Law, the general election to be held in 2018, on a date to be appointed in accordance with that subsection, shall be for the purpose of electing such number of Conseillers as may be required in order that the total number of Conseillers in office shall, from the date appointed by the Chief Pleas in respect of that election under section 23(2)(a) of the principal Law, be eighteen.

(3) Should the number of Conseillers elected in 2018 in accordance with subsection (2) be equal to or fewer than nine, such Conseillers will hold office for a four-year term in accordance with section 23(2) of the principal Law.

(4) Should the number of Conseillers elected in 2018 in accordance with subsection (2) exceed nine –

- (a) nine Conseillers so elected shall hold office for a four-year term in accordance with section 23(2) of the principal Law, and
- (b) the remaining Conseillers so elected shall hold office for a two-year term until the expiration of the terms of

^b Ordinance no. VIII of 2016.

office of those Conseillers elected, or deemed to have been elected, at the previous general election or at a by-election to fill a vacancy amongst the Conseillers so elected,

subject in all cases to the provisions of the principal Law; and the respective terms to be served by each such successful candidate shall be determined in accordance with subsection (5).

(5) For the purposes of subsection (4), the nine successful candidates who receive the largest number of votes shall be declared elected to hold office for a four-year term in accordance with subsection (4)(a), and the remaining successful candidates shall be declared elected to hold office for a two-year term in accordance with subsection (4)(b); and if there is an equal number of votes for two or more successful candidates such that their respective terms of office cannot otherwise be determined, the period of office to be served by each such candidate shall be determined by lots drawn by those candidates under the supervision of the returning officer immediately after the declaration of the result of the election.

(6) Notwithstanding the provisions of section 23(1) of the principal Law, the general election to be held in 2020, on a date to be appointed in accordance with that subsection, shall be for the purpose of electing such number of Conseillers as may be required in order that the total number of Conseillers in office shall, from the date appointed by the Chief Pleas in respect of that election under section 23(2)(a) of the principal Law, be eighteen; and the provisions of subsections (3) to (5) shall apply to that election, as they apply to the election in 2018, for the purpose of establishing the respective terms of office to be served by each successful candidate.

Interpretation.

10. (1) In this Law -

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**principal Law**" means the Reform (Sark) Law, 2008,

"**registration**", in relation to this Law, means the date of its registration on the records of the Island of Sark,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

and other expressions have the same meaning as in the principal Law.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of this Law.

(3) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

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

Citation.

11. This Law may be cited as the Reform (Sark) (Amendment) Law, 2017.

Commencement.

12. (1) This Law, except for section 3(a), shall come into force on the date of its registration.

(2) Section 3(a) shall come into force on the date appointed by Ordinance of the Chief Pleas for the purpose of section 23(2)(a) in respect of the general election to be held in 2018.

Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey

PRICE £4.00

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