

ORDER IN COUNCIL

**X
2021**

ratifying a Projet de Loi

ENTITLED

The Census (Sark) Law, 2021

**(Registered on the Records of the Island of Guernsey on the 18th
October, 2021.)**



2021



In the Royal Court of the Island of Guernsey

The

18th day of October, 2021 before Richard James McMahon, Esquire, Bailiff; present:- Claire Helen Le Pelley, Terry John Ferbrache, Jonathan Grenfell Hooley, David James Mortimer, David John Robilliard, Stuart Michael Crisp, Esquires, Marilyn Jasmine King, Tina Jane Le Poidevin, Paul Martin Burnard, Esquire, Felicity Jane Quevâtre-Malcic, Heather Reed, Simon Ernest Bodkin, Esquire, Jurats.

The Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 29th September 2021, approving and ratifying a Projet de Loi of the Chief Pleas entitled “The Census (Sark) Law, 2021”. 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 Balmoral

THE 29th DAY OF SEPTEMBER 2021

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 14th April 2021, the Chief Pleas of the Island of Sark at a meeting on 7th July 2021 approved a *Projet de Loi* entitled the Census (Sark) Law, 2021. 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 Census (Sark) Law, 2021, 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 Census (Sark) Law, 2021

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the 14th April, 2021 and the 7th July, 2021, 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.

Power to direct taking of census.

1. (1) Subject to the provisions of this Law, the Chief Pleas may by Ordinance direct that a census shall be taken for Sark, and such Ordinance may prescribe –

- (a) the date on which the census is to be taken,
- (b) the persons by whom and with respect to whom the returns for the purpose of the census are to be made, and
- (c) the particulars to be stated in the returns.

(2) No Ordinance shall be made under this section so as to require a census to be taken in Sark in any year unless at the commencement of that year at least five years have elapsed since the commencement of the year in which a census was last taken in Sark.

(3) No particulars shall be required to be stated other than particulars with respect to such matters as are set out in the Schedule to this Law.

Provision with respect to procedure for taking census.

2. Without prejudice to the generality of section 1, an Ordinance under that section may –

- (a) provide for the division of Sark into districts for the purposes of the census and the appointment of persons to act in those districts in connection with the census,
- (b) prescribe the procedure for taking the census,
- (c) require such persons as may be employed or engaged for the purpose of the census to perform such duties in connection with the taking of the census as may be prescribed,
- (d) require such persons to make a declaration, supported by affidavit, with respect to the performance of their duties,
- (e) specify who is liable to make returns for the purpose of the census in prescribed circumstances,
- (f) require particulars or information to be given to the persons liable to make returns for the purposes of a census by the persons with respect to whom the returns are to be made,
- (g) make provision with respect to the forms to be used in the taking of a census,

- (h) make such other provision as appears to the Chief Pleas to be necessary or expedient for the purpose of carrying the Ordinance into effect.

Registrar.

3. (1) The Chief Pleas shall appoint a person, to be called the Registrar, to make such arrangements and do all such things as are necessary for the taking of a census under this Law and to perform the duties assigned to that office under an Ordinance made under section 1.

(2) The Registrar shall, as soon as reasonably practicable after the taking of a census, prepare a report on the census and lay it before the Chief Pleas.

(3) A person appointed to be the Registrar shall be paid such remuneration out of public funds as the Chief Pleas may from time to time resolve.

Restriction on disclosure of particulars or information.

4. (1) Personal census information obtained under this Law may be used only for statistical purposes or for analysis and must not otherwise be disclosed.

(2) A person must not disclose any personal census information obtained under this Law in a form that may identify any individual or household.

(3) Nothing in this section shall be taken to prevent the disclosure of personal census information –

- (a) in accordance with any enactment,
- (b) pursuant to an order of a court, or
- (c) for the purposes of any proceedings for an offence under this Law.

Entry on land or premises for authorised purposes and delivery of documents.

5. (1) A person employed or engaged under this Law may, other than by force and at all reasonable times, on production of the person's written authorisation if required, enter any land or premises for the purposes of –

- (a) delivering or collecting any forms or notices required for the purposes of the census,
- (b) making such enquiries as the person is authorised to make under this Law.

(2) The delivery of any form or notice required for the purpose of the census may be effected by being delivered in person by a person employed or engaged under this Law, or by post, or by any other means of communication and, if delivered by post, is taken to have been received when it would, in the ordinary course of post, be delivered.

Offences and penalties.

6. (1) If any person (A) -

- (a) wilfully refuses or without lawful excuse fails to furnish any particulars or information required to be furnished under this Law,
- (b) wilfully furnishes or causes to be furnished any false particulars or information in respect of any matter in respect of which particulars or information are required to be furnished under this Law,
- (c) refuses to answer, or wilfully gives a false answer to, any question necessary for obtaining any particulars or information required to be furnished under this Law,

- (d) being a person required under this Law to make a declaration with respect to the performance of A's duties, refuses to make such a declaration or makes a false declaration,
- (e) wilfully obstructs any person employed or engaged under this Law in the exercise of that person's functions under this Law, or
- (f) impersonates any person employed or engaged under this Law,

A shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the Sark uniform scale.

(2) If any person (A) –

- (a) being employed or engaged under this Law, without lawful authority discloses any personal census information to another person, or
- (b) having possession of any personal census information which to the person's knowledge has been disclosed in contravention of this Law, discloses that information to any other person,

A shall be guilty of an offence and liable –

- (i) on summary conviction to a term of imprisonment not exceeding six months or to a fine, or to both,

- (ii) on conviction on indictment, to a term of imprisonment not exceeding two years or to a fine, or to both.

(3) It shall be a defence for a person (A) charged with an offence under subsection (2) to prove –

- (a) that at the time of the alleged offence A believed –
 - (i) that A was acting with lawful authority, or
 - (ii) that the information in question was not personal census information, and
- (b) that A had no reasonable cause to believe otherwise.

Offences by bodies corporate.

7. (1) Where an offence under this Law committed by a body corporate, limited partnership with legal personality or foundation is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, controller, manager, secretary or other similar officer of the body corporate, any general partner in the case of a limited partnership, any foundation official, or any person purporting to act in any such capacity, that officer or person as well as the body corporate, limited partnership or foundation (as the case may be) is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with the member's functions of management as if the member were a director of the body corporate.

Interpretation.

8. In this Law, unless the context otherwise requires –

"**census information**" means any information which is –

- (a) acquired by any person in the course of any work done by that person in connection with the discharge of functions under this Law,
- (b) derived from any information so acquired,

"**household**" means –

- (a) one person living alone, or
- (b) two or more persons living at the same address, who share living accommodation and cooking facilities,

"**personal census information**" means any census information which relates to an identifiable person or household.

Citation.

9. This Law may be cited as the Census (Sark) Law, 2021.

Commencement.

10. This Law shall come into force on the day of its registration on the records of Sark.

SCHEDULE

MATTERS IN RESPECT OF WHICH PARTICULARS MAY BE REQUIRED

Section 1

1. Names, sex, age.
2. Education, qualifications, occupation, profession, trade or employment including hours worked and whether permanent or seasonal.
3. Nationality, birthplace, race, language, ethnic background.
4. Date of first residence in Sark.
5. Current usual place of residence in Sark, period of residence there, character of dwelling, whether freehold or leasehold and unexpired term, the accommodation and facilities available for use by the household.
6. Residential status under the Housing (Control of Occupation) (Sark) Law, 2011^a.
7. Whether the person has a permanent place of residence other than in Sark and, if so, the location and aggregate period of residence in that other residence during the previous five years.
8. Whether present in or absent on census day from the household or establishment which is the person's usual place of residence in Sark.
9. Condition as to marriage or civil partnership, relationship to person liable to make the return, children.

^a Order in Council No. IV of 2013; amended by No. II of 2014; No. IV of 2015.

10. State of health, including whether or not the person has a physical or mental disability or chronic illness and, if so, the effect it has on the person's ability to carry out a normal range of activities.
11. Whether the person receives care from another person or is a carer for another person.
12. Any other matters with respect to which it is desirable to obtain statistical information with a view to ascertaining the social or civil condition of the population.

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

PRICE £3.00