

ORDER IN COUNCIL

VIII
2020

ratifying a Projet de Loi

ENTITLED

The Evictions (Stay of Execution) (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 Evictions (Stay of Execution) (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 3rd July 2019 approved a *Projet de Loi* entitled the Evictions (Stay of Execution) (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 Evictions (Stay of Execution) (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 Evictions (Stay of Execution) (Sark) Law, 2019

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the 11th April, 2018 and 3rd 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^a, or has

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

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
- (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.