

PROJET DE LOI

ENTITLED

The Reform (Sark) (Amendment) Law, 2016 *

[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 Murette, Sark, GY10 1SF.

© Chief Pleas of Sark

* No. IX of 2016.

PROJET DE LOI

ENTITLED

The Reform (Sark) (Amendment) Law, 2016

ARRANGEMENT OF SECTIONS

- 1.-35. Amendments to 2008 Law.
- 36. Interpretation.
- 37. Citation.
- 38. Commencement.

PROJET DE LOI

ENTITLED

The Reform (Sark) (Amendment) Law, 2016

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the 4th May, 2011, 20th January, 2015, 10th February, 2015, 30th September, 2015 and 6th April, 2016, 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.

Amendments to 2008 Law.

1. The Reform (Sark) Law, 2008, as amended^a, is further amended as follows.

2. In the Arrangement of Sections –

- (a) under "PART III THE CHIEF PLEAS OF SARK", for the centre heading "President of the Chief Pleas" substitute "Speaker of the Chief Pleas",
- (b) for "22A. President of the Chief Pleas.", substitute "22A. Speaker of the Chief Pleas.",
- (c) immediately below the entry for 22A, insert an additional entry "22B. Deputy Speaker of the Chief Pleas.",

^a Order in Council Nos. V, VI and XXVII of 2008; No. XIV of 2010; No. XII of 2011 and No. XI of 2014.

- (d) the entry "38. Seigneur's veto." is deleted, and
- (e) for "63. Audit etc. of accounts.", substitute "63. Audit or review etc. of accounts."

3. In section 5, insert "(1)" at the beginning of the text and immediately after that subsection insert the following additional subsection –

"(2) Where it appears to the Seneschal that it would be expedient so to do, any proceedings, or part of any proceedings, of the Court may be heard by the Court sitting in the Island of Guernsey."

4. In section 6 –

- (a) in subsection (4), for "including" substitute "excluding", and the words "in consultation with the Sark Finance and Resources Committee" are repealed,
- (b) immediately after subsection (4), insert the following additional subsections –

"(5) Remuneration attaching to the office of the Seneschal shall be determined by the Remuneration Panel, after consultation with the Sark Finance and Resources Committee, and shall be payable out of public funds.

(6) The Remuneration Panel shall be constituted by three persons appointed for the purpose from time to time by the Seigneur.

(7) No person who is a Conseiller may be a member

of the Remuneration Panel.".¹

5. In section 7 –

- (a) in subsection (2), for "President" substitute "Speaker", and after "unable" insert "or unwilling", and
- (b) in subsection (3), for "section 6(2), (3) and (4)" substitute "section 6(2), (3), (4) and (5)".

6. In section 8 –

- (a) subsection (4) is repealed,
- (b) in subsection (5), for "including" substitute "excluding", and
- (c) immediately after subsection (5), insert the following additional subsection –

"(6) Remuneration attaching to the office of a Lieutenant Seneschal shall be determined by the Remuneration Panel, after consultation with the Sark Finance and Resources Committee, and shall be payable out of public funds.".²

7. In section 17(2), the word "audited" is repealed.

8. In section 21, for the words in subsection (1)(b), substitute "the Speaker, and".

9. In section 22(5), immediately after "unable" insert "or unwilling".

10. Immediately before section 22A, for the centre heading "President of the Chief Pleas" substitute "Speaker of the Chief Pleas", and for the section heading "President of the Chief Pleas" substitute "Speaker of the Chief Pleas".

11. In section 22A, for subsection (1), substitute the following subsections

—

"(1) Subject to subsection (11), the Speaker of the Chief Pleas ("**the Speaker**") shall be appointed by the Chief Pleas for such term of office as the Chief Pleas shall, subject to subsection (1A), by resolution determine.

(1A) The term of office determined by the Chief Pleas under subsection (1) shall be a term of at least 3, but no more than 5, years."

12. In subsections (2) to (4) and (6) to (13) of section 22A, for "President", in each place where it occurs, substitute "Speaker".

13. For subsection (5) of section 22A, substitute —

"(5) Elections for the office of Speaker, except for any election held under subsection (10), shall be held at least 30 days before the expiration of the term of office determined under subsection (1), in each case on a date to be appointed by Ordinance."

14. Immediately after section 22A(6), insert the following additional subsection —

"(6A) Section 40 applies in relation to an Ordinance made

under this section as it applies in relation to an Ordinance made under section 37."

15. Immediately after section 22A, insert the following additional section

"Deputy Speaker of the Chief Pleas.

22B. (1) There shall be a Deputy Speaker of the Chief Pleas ("the Deputy Speaker") –

- (a) who shall assist the Speaker in the discharge of the duties and exercise of all the powers of the office of Speaker, as directed from time to time by the Speaker, and
- (b) who may perform all the duties and exercise all the powers of the office of Speaker in the absence or incapacity of the Speaker, or if the Speaker shall be unable or unwilling for any reason to act,

except that the Deputy Speaker shall not perform any of the duties or exercise any of the powers of the Speaker in his capacity as one of the Trustees within the meaning of section 56(1).

(2) The provisions of section 22A, other than subsection (2), apply to the office of Deputy Speaker as they apply to the office of Speaker."

16. In section 23(9) and in section 24(1), for "President", in each place where it occurs, substitute "Speaker".

17. In section 24(2), for "President" substitute "Speaker" and immediately after the words "in respect of any election" insert "the Deputy Speaker (except in the case of an election for the Deputy Speaker) or, should he be so unable or unwilling,".

18. In section 25(1), for "subsection (3)" substitute "the provisions of this section".

19. For section 25(2), substitute –

"(2) Where, at a general election, there are one or more existing vacancies to be filled pursuant to section 23(11) –

- (a) the successful candidates who receive the largest number of votes shall be declared elected to replace those Conseillers whose terms of office are due to expire, and the existing vacancies shall be filled by the remaining successful candidates,
- (b) if, at such an 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, those respective terms of office shall be determined by lots drawn by the relevant candidates under the supervision of the returning officer immediately after the declaration of the result of the election,
- (c) if the number of candidates is not greater than the total number of vacancies to be filled, the

returning officer shall, after the time fixed for the making of nominations has expired, declare to be elected each candidate who has consented to a nomination, and

- (i) where the number of candidates is greater than the number required to replace those Conseillers whose terms of office are due to expire, the respective terms of office of the candidates shall be determined by lots drawn by the candidates under the supervision of the returning officer, and
- (ii) where there is an insufficient number of candidates to replace those Conseillers whose terms of office are due to expire, a further election shall be held in accordance with subsection (3)."

20. In section 25(3), immediately after the words "If at any election" insert "other than one falling within subsection (2)".

21. In section 31(2) and (4), for "President" substitute "Speaker".

22. In section 32 –

- (a) subsection (1A) is repealed, and
- (b) for "President", in each place where it occurs, substitute "Speaker".

23. In section 34(2) and (4) and section 35(1) and (4), for "President" substitute "Speaker".

24. In section 37, for "sections 38 and 39" substitute "section 39".

25. Section 38 is repealed.

26. For section 43(1), substitute –

"(1) The Chief Pleas shall, at an extraordinary meeting of the Chief Pleas to be held as soon as reasonably practicable after the entry into office of the Conseillers following a general election –

- (a) determine by resolution the number of Conseillers (such number to be at least 3 but no more than 12) who shall constitute the Douzaine for the period ending with the next succeeding extraordinary meeting to be held under this section, and
- (b) elect such number of Conseillers, as determined under paragraph (a),

to be members of the Douzaine, subject to subsection (3), for the duration of their respective terms of office."

27. In section 45, for "President" substitute "Speaker" in each place where it occurs.

28. In section 49 –

- (a) in subsection (3), after "unable" insert "or unwilling",
- (b) immediately after subsection (3), insert the following additional subsection –

"(3A) The Seigneur may, after consultation with the Prévôt, appoint a person, who is ordinarily resident in Sark, to act as Assistant Deputy Prévôt and may, after consultation with the Greffier, appoint a person, who is ordinarily resident in Sark, to act as Assistant Deputy Greffier, respectively –

- (a) to perform all the duties and exercise all the powers under this Law, and
- (b) to perform all such other duties and exercise all such other powers as are otherwise required by the law for the time being in force to be performed or exercised,

by the Prévôt or the Greffier, as the case may be, in the absence or incapacity of the principal office-holder and of any person appointed under subsection (3), or should the principal office-holder and any person appointed under subsection (3), for any reason, be unable or unwilling to act; provided that neither the Assistant Deputy Prévôt nor the Assistant Deputy Greffier shall perform any of the duties nor exercise any of the powers vested in the relevant principal office-holder in his capacity as one of the Trustees within the meaning of section 56(1).",

- (c) in subsections (4), (5) and (6), for "Greffier or Deputy Greffier" substitute "Assistant Deputy Prévôt, Greffier, Deputy Greffier or Assistant Deputy Greffier", and

- (d) in subsection (8), for "or Deputy Greffier" substitute ", Assistant Deputy Prévôt, Deputy Greffier or Assistant Deputy Greffier".

29. In section 50(2) and (4), section 51(2) and (4), and section 53(7), for "President" substitute "Speaker".

30. In section 55(4) –

- (a) for "a period of 2 years" substitute "such period, of twelve months or 2 years, as the Chief Pleas may by resolution determine,", and
- (b) for "President" substitute "Speaker".

31. In section 59 –

- (a) in subsection (1), for "audited accounts" substitute "accounts, audited or reviewed in accordance with section 63," and after "public purposes" insert ", and the revenue received,"
- (b) for subsection (2), substitute –

"(2) The Sark Finance and Resources Committee shall, at a meeting in each financial year, present a Budget setting out –

- (a) the forecast costs during the next ensuing financial year of such public

purposes as the Chief Pleas may by resolution have determined should be, or as are required by any enactment to be, provided or undertaken, and

- (b) the forecast income required to be raised during the next ensuing financial year for the purpose of funding the forecast costs referred to in paragraph (a),

and such Budget, if approved by the Chief Pleas, shall be submitted to the Lieutenant Governor for approval.".³

32. In section 62(3), for "auditor" substitute "independent accountant".

33. In section 63 –

- (a) for the heading, substitute "Audit or review etc. of accounts.",

- (b) for subsection (1), substitute –

"(1) The accounts shall be audited or reviewed by an independent accountant ("**the appointed person**") appointed from time to time by the Chief Pleas and approved by the Lieutenant Governor.",

- (c) in subsection (2), for "as auditor" substitute "to audit or review the accounts",

- (d) in subsection (3), for "auditor" substitute "appointed

person",

- (e) for subsection (4), substitute –

"(4) The appointed person shall, as directed by resolution of the Chief Pleas, audit or review the accounts prepared pursuant to section 62 and shall, as soon as possible thereafter, submit a report to the Treasurer.",

- (f) immediately after subsection (5), insert the following additional subsection –

"(6) The Chief Pleas may from time to time determine the accounting standards which shall be adopted for the purpose of an audit or review under this section."

34. In section 64 –

- (a) in subsection (1), the words "and with the consent of the Seigneur," are repealed, and
- (b) immediately after subsection (3), insert the following additional subsection –

"(4) The Constable shall inform the Seigneur whenever an application is made under subsection (1)."

35. In section 65(1) –

- (a) the definitions of "the President" and "qualified auditor" are repealed,

- (b) insert the following definitions in the appropriate positions –

""Deputy Speaker" means the Deputy Speaker of the Chief Pleas elected in accordance with section 22A as applicable under section 22B(2),"

""independent accountant" means a person who is a member of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants of Scotland, the Institute of Chartered Accountants in Ireland or the Chartered Association of Certified Accountants, or who is recognised by the Chief Pleas as having similar qualifications obtained outside the United Kingdom,"

""Remuneration Panel" means the panel constituted under section 6(6),".

Interpretation.

36. (1) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Law as it applies to the interpretation of an enactment in force in the Island of Guernsey.

(2) 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.

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

Citation.

37. This Law may be cited as the Reform (Sark) (Amendment) Law, 2016.

Commencement.

38. (1) This Law shall come into force on a date to be appointed by Ordinance of the Chief Pleas, and different dates may be appointed for different provisions of this Law and for different purposes.

(2) An Ordinance made under this section may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient.

NOTES

Sections 1, 2(d) and (e), 3 and 4, 5(b), 6 and 7, 9, 12 (in its application to section 22A(6) only), 14, 15, 18 to 20, 24 to 26, 28, 30(a), 31 to 34, 35 (except to the extent that it repeals the definition of "President" and inserts the definition of "Deputy Speaker"), and 36 to 38 of the Law were brought into force on 6th October, 2016 by the Reform (Sark) (Amendment) Law, 2016 (Commencement and Consequential Provision) Ordinance, 2016, section 1(a); the remaining provisions of the Law were brought into force on 27th February, 2017 by section 1(b) of the 2016 Ordinance.

The following Ordinances have been made under section 38:

Reform (Sark) (Amendment) Law, 2016 (Commencement and Consequential Provision) Ordinance, 2016;

Reform (Elections of Speaker and Deputy Speaker) (General Provisions) (Sark) Ordinance, 2016.

¹ For subsequent amendments, see the consolidated text of the Reform (Sark) Law, 2008.

² For subsequent amendments, see the consolidated text of the Reform (Sark) Law, 2008.

³ For subsequent amendments, see the consolidated text of the Reform (Sark) Law, 2008.