

# PROJET DE LOI

ENTITLED

## **The Regulation of Health Professions (Enabling Provisions) (Sark) Law, 2012 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. 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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\* No. XIV of 2013; as amended by the Sark Machinery of Government (Transfer of Functions) Ordinance, 2017 (Sark Ordinance No. I of 2017).

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## **The Regulation of Health Professions (Enabling Provisions) (Sark) Law, 2012**

### ARRANGEMENT OF SECTIONS

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## **The Regulation of Health Professions (Enabling Provisions) (Sark) Law, 2012**

**THE CHIEF PLEAS OF SARK**, in pursuance of their Resolutions of 6<sup>th</sup> July, 2011 and 18<sup>th</sup> January, 2012, 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.

### **General power to make Ordinances concerning health professions.**

1. The Chief Pleas may by Ordinance make such provision as they think fit concerning all or any of the following matters –

- (a) any health profession,
- (b) any person with a prescribed connection to a health profession, and
- (c) any person who purports to practise, or to be qualified to practise, a health profession.

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### **NOTE**

*The following Ordinances have been made under section 1:*

*Regulation of Health Professions (Medical Practitioners) (Sark) Ordinance, 2017;*  
*Regulation of Health Professions (Non-medical) (Sark) Ordinance, 2018.*

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### **Specific matters for which Ordinances may make provision.**

2. Without limiting the generality of section 1, an Ordinance may make provision in relation to all or any of the matters set out in Schedule 1.

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**NOTE**

*The following Ordinances have been made under section 2:*

*Regulation of Health Professions (Medical Practitioners) (Sark) Ordinance, 2017;*  
*Regulation of Health Professions (Non-medical) (Sark) Ordinance, 2018.*

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**General provisions as to Ordinances, etc.**

3. (1) An Ordinance –
- (a) may be amended or repealed by a subsequent Ordinance, and
  - (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient (including, without limitation, provision making consequential amendments to this Law and any other enactment).
- (2) Any power to make an Ordinance under this Law may be exercised –
- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to prescribed exceptions, or in relation to any prescribed cases or classes of cases, and
  - (b) so as to make, as respects the cases in relation to which it is exercised –
    - (i) the full provision to which the power extends or any lesser provision (whether by way of exception or otherwise),

- (ii) the same provision for all cases, or different provision for different cases, or classes of cases, or different provision for the same case or class of case for different purposes, or
- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Without prejudice to the generality of the other provisions of this Law, an Ordinance under this Law –

- (a) may, subject to subsection (4), make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences,
- (b) may empower the Committee, any other Committee of the Chief Pleas, any other body or authority (including, without limitation, the Court of the Seneschal), or any other person to –
  - (i) make subordinate legislation, or
  - (ii) issue codes or guidance,

in relation to any matter for which an Ordinance may be made under this Law (except an amendment or substitution of Schedule 2 under section 5 of this Law),

- (c) may make provision for the purpose of dealing with matters arising out of or related to matters set out in section 1,
- (d) may provide that no liability shall be incurred by any person in respect of anything done or omitted to be done in the discharge or purported discharge of any of

his functions unless the thing is done or omitted to be done in bad faith,

- (e) may make provision under the powers conferred by this Law despite the provisions of any enactment for the time being in force,
- (f) may repeal, replace, amend, extend, adapt, modify or disapply any rule of custom or law, and
- (g) without prejudice to the generality of the foregoing, may make any such provision of any such extent as might be made by Projet de Loi, but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance.

(4) An Ordinance may not –

- (a) provide for offences to be triable only on indictment,
- (b) authorise the imposition, on summary conviction of an offence, of a term of imprisonment exceeding 1 month or a fine exceeding level 4 on the Sark uniform scale, or a term of imprisonment exceeding 1 month in default of payment of a fine, or
- (c) authorise the imposition, on conviction on indictment of an offence, of a term of imprisonment exceeding two years.

**Interpretation.**

4. (1) In this Law, unless the context requires otherwise –

**"Chief Pleas"** means the Chief Pleas of Sark,

**"Committee"** means the [Medical & Emergency Services

Committee] of the Chief Pleas,

**"enactment"** means any Law, Ordinance, or subordinate legislation,

**"functions"** includes powers and duties,

**"health profession"** –

- (a) means a profession or occupation of any kind or description in the medical or healthcare sector,
- (b) without limiting the generality of paragraph (a), includes a profession or occupation listed in Schedule 2, and
- (c) includes any health professional,

**"health professional"** means –

- (a) any person who practises a profession or occupation referred to in paragraph (a) or (b) of the definition of "health profession" in this subsection, or
- (b) any person undergoing practical training to practise any such profession or occupation,

**"this Law"** includes –

- (a) any Ordinance made under this Law, and
- (b) any subordinate legislation made under any such Ordinance,

**"person"** includes any body or authority,

**"prescribed"** means prescribed by or under an Ordinance, and

**"subordinate legislation"** means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect.

(2) The Interpretation (Guernsey) Law, 1948<sup>a</sup> 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.

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#### NOTES

*In section 4, the words in square brackets in the definition of the expression "Committee" in subsection (1) were substituted by the Sark Machinery of Government (Transfer of Functions) Ordinance, 2017, section 2, Schedule 1, paragraph 3, with effect from 14th January, 2017.*

*The functions, rights and liabilities of the Medical Committee and of its Chairman arising under or by virtue of this Law were transferred to and vested in, respectively, the Medical & Emergency Services Committee and its Chairman by the Sark Machinery of Government (Transfer of Functions) Ordinance, 2017, section 1, Schedule 1, paragraph 3, with effect from 14th January, 2017, subject to the savings and transitional provisions in section 3 of the 2017 Ordinance.*

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#### **Schedule 2 may be amended by Ordinance.**

5. The Chief Pleas may at any time by Ordinance amend or substitute all or any part of Schedule 2.

#### **Citation.**

6. This Law may be cited as the Regulation of Health Professions (Enabling Provisions) (Sark) Law, 2012.

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#### NOTE

*The Law received Royal Sanction on 9th October, 2013 and was registered*

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<sup>a</sup> Ordres en Conseil Vol. XIII, p. 355.



*on the Records of the Island of Guernsey and came into force on 11th November, 2013.*

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SCHEDULE 1

Section 2

SPECIFIC MATTERS FOR WHICH AN ORDINANCE MAY BE MADE

1. Any form of regulation of, or restriction on, the practice of a health profession, including a prohibition of the practise of the profession unless the person concerned satisfies prescribed requirements or conditions, for example –
  - (a) being employed by or having a prescribed connection with a prescribed person,
  - (b) being registered, licensed, certified or accredited in a prescribed manner,
  - (c) holding a prescribed qualification or being qualified in a prescribed manner, or
  - (d) practising the profession only in premises of a prescribed kind or description or premises that meet prescribed standards or requirements.
2. The grant to, or conferral on, any person of the exclusive right to practise a health profession.
3. Establishment, appointment or recognition of any person for the purposes of the regulation of a health profession, including giving the person powers, duties and other functions.
4. Standards or requirements relating to the fitness to practice, or continued fitness to practice (including standards or requirements relating to qualifications, education and training), a health profession.
5. Standards or requirements relating to conduct (including codes of conduct), ethics or performance in relation to a health profession.
6. Duties, obligations, rights and privileges in relation to a health profession.

7. Use of names, titles or descriptions in any way associated with a health profession.
8. Duties and obligations of any employer of, or any person who has a prescribed connection with, health professionals.
9. The levying or imposition of fees or charges in connection with any matter for which an Ordinance may be made under this Law.
10. Any powers considered necessary or expedient for the enforcement or due administration of this Law, including (without limitation) powers of entry, inspection, questioning, search, seizure, forfeiture and disposal, arrest and detention, disclosure of information or requiring the disclosure of information.
11. Appeals in relation to any decision made under this Law.
12. Any other matters necessary or expedient for giving full effect to this Law and for its due administration.

SCHEDULE 2  
EXAMPLES OF HEALTH PROFESSIONS

Section 4(1)

1. Medical practitioner, dentist or pharmacist (including pharmaceutical chemist, chemist or druggist).
2. Nurse, midwife or health visitor.
3. Arts therapist.
4. Biomedical scientist.
5. Chiropodist or podiatrist.
6. Chiropractor.
7. Clinical dental technician.
8. Clinical scientist.
9. Dental nurse.
10. Dental technician.
11. Dental therapist.
12. Dietitian.
13. Occupational therapist.
14. Operating department practitioner.
15. Orthodontic therapist.
16. Orthoptist.
17. Osteopath.
18. Paramedic.
19. Physiotherapist.
20. Practitioner psychologist.
21. Prosthetist or orthotist.
22. Radiographer.
23. Social worker.
24. Speech and language therapist.