

The Education (Sark) Ordinance, 2003

THE CHIEF PLEAS OF SARK, in exercise of the powers conferred on them by section 1 of the Education (Sark) Law, 2001¹, hereby order:-

Education Committee

1. (1) There shall be a committee of Chief Pleas which shall be styled the Education Committee (hereinafter referred to as “the Committee”) with the authority to exercise the powers and perform the duties conferred and imposed upon it by this Ordinance.

(2) The Committee shall consist of a Chairman and four ordinary members elected by Chief Pleas from members of Chief Pleas who may be Tenants or Deputies.

(3) The Committee shall elect a Deputy Chairman.

(4) The decision of a majority of members of the Committee present at a meeting shall be a decision of the Committee.

(5) The quorum for a meeting of the Committee shall be three members, and the Committee shall regulate its own procedure.

¹ Order in Council No. XIII of 2001.

System of education

2. (1) A statutory system of public education shall be set up in order to provide-

(a) full-time education, including a school, ancillary facilities and equipment, suitable for children of primary school age, that is to say, for children who will, during the relevant school term, have attained the age of five years up to and including children who will, during the relevant school year, have attained the age of eleven years;

(b) continuing full-time education as aforesaid in a limited number of subjects at the discretion of the Committee for children who will, during the relevant school year, have attained the age of twelve years up to and including children who will, during the said school year, have attained the age of fifteen years.

(2) It shall be the duty of the Committee, so far as its powers extend, to contribute towards the spiritual, moral, mental and physical development of the community by ensuring that efficient education up to the age of fifteen years, to the extent required by subsection (1), is available to meet the needs of the population.

(3) The Committee shall be under no obligation to provide educational facilities, or to provide funds for the education of children, elsewhere than in the island although the Committee may, at its discretion, pursuant to written application and upon the recommendation of the head, or other senior teacher, of

the School, give financial assistance for such purposes.

(4) The Committee shall to the best of its ability and within the limitations of its resources provide educational facilities for children with special needs and shall ensure that such children are identified as soon as reasonably possible after entry to the School.

(5) Children shall not be first admitted to the School as registered pupils otherwise than at the beginning of a school term, except with the permission of the Committee for reasons of illness, absence from the island or other circumstances beyond the parents' control.

Duty of parents to secure the education of their children

3. (1) It shall be the duty of the parent of every child of compulsory school age to cause him to receive efficient full-time education suitable to his age, ability and to any special educational needs which he may have, either by regular attendance at school or otherwise:

Provided that the parent of a child shall not be under any duty to cause him to receive full-time education during any period during which, having regard to the provisions of section 2(5), it is not practicable for the parent to arrange for him to become a registered pupil at a school, whether in Sark or elsewhere.

(2) Where a parent elects to cause a child to receive education otherwise than by regular attendance at school in Sark or elsewhere, the Committee may arrange for assessment of the education so provided to be undertaken by a representative of the Committee, or by another person appointed by the Committee for that purpose, to ascertain whether, in the opinion of the Committee, the child is receiving efficient full-time education suitable to his age, ability and aptitude and to any special educational needs which he may have.

School attendance orders

4. (1) If it appears to the Committee that the parent of any child of compulsory school age is failing to perform the duty imposed on him by section 3 the Committee shall serve upon the parent a notice requiring him, within a time specified in the notice not being less than fourteen days from the date of service thereof, to satisfy the Committee that the child is receiving an efficient education suitable to his age, ability and aptitude and to any special educational needs which he may have either by regular attendance at school or otherwise.

(2) If within the specified time after such notice has been served the parent fails to satisfy the Committee that the child is receiving an efficient education as aforesaid, and there is no reason within the meaning of the proviso to section 3(1) why he should not be receiving such an education, the Committee shall cause an order (hereinafter referred to as a “school attendance order”), in such form as the Committee may prescribe, to be served upon the parent requiring him within seven days of service of the school attendance order to cause the child to become a registered pupil at the School.

(3) If a parent upon whom a school attendance order is served fails to comply with the requirements of the order, he shall be guilty of an offence and liable upon conviction in the case of a first offence to a fine not exceeding level 1 on the Sark uniform scale and in the case of a second or subsequent offence to a fine not exceeding level 2 on the Sark uniform scale or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

(4) It shall be a defence for a person charged with an offence under subsection (3) to show that the child is a registered pupil at a school other than the School or that the child is receiving an efficient education suitable to his age, ability and aptitude and to any special educational needs which he may have

otherwise than at school.

(5) A school attendance order made with respect to any child shall continue in force until the child is no longer of compulsory school age unless previously revoked by the Committee.

Duty of parents to secure regular attendance of registered pupils

5. If any child of compulsory school age who is a registered pupil at the School fails to attend regularly thereat, the parent of the child shall be guilty of an offence and liable upon conviction in the case of a first offence to a fine not exceeding level 1 on the Sark uniform scale and in the case of a second or subsequent offence to a fine not exceeding level 2 on the Sark uniform scale or to imprisonment for a term not exceeding one month or to both such fine and such imprisonment.

Power of Committee to exclude pupils

6. (1) The Committee shall have the power to exclude from the School, whether by expulsion, suspension or otherwise, any child whose behaviour disrupts or otherwise interferes with the education of other children in the School.

(2) A person aggrieved by a decision of the Committee to exclude a child pursuant to subsection (1) may appeal to the Court against the decision.

(3) The grounds of appeal under this section shall be -

(a) that the decision was ultra vires or that some other error of law has been made;

(b) that a material error as to the facts has been made;

- (c) that there was some other material irregularity, including unreasonableness, bad faith or lack of proportionality.
- (4) An appeal under this section shall be instituted -
 - (a) within a period of 28 days immediately following the date of the Committee's decision; and
 - (b) by summons served on the President of the Committee stating the grounds and material facts on which the appellant relies.
- (5) On an appeal under this section the Court may -
 - (a) set the decision of the Committee aside and, if the Court considers it appropriate to do so, remit the matter to the Committee with such directions as the Court thinks fit; or
 - (b) confirm the decision, in whole or in part.

Independent Schools

7. (1) No person shall conduct an independent school unless it is registered by the Committee, which shall keep a register of independent schools, under the provisions of this section.

(2) The registration of any school shall be provisional only until the Committee, after the school has been inspected on its behalf, at the expense of

the proprietor, under the provisions of paragraph 8(1), gives notice to the proprietor that the registration is final.

(3) No independent school shall be registered if its proprietor is disqualified from being the proprietor of such a school or if the premises are disqualified from being used as a school.

(4) Where the Committee is satisfied that any registered or provisionally registered school is objectionable upon all or any of the following grounds –

- (a) that the school premises or any parts thereof are unsuitable for a school;
- (b) that the accommodation provided at the school premises is inadequate or unsuitable having regard to the number, ages and sex of the pupils attending the school;
- (c) that efficient and suitable instruction is not being provided at the school having regard to the ages and sex of the pupils attending thereat;
- (d) that the proprietor of the school or any teacher employed therein is not a proper person to be the proprietor of an independent school or to be a teacher in any school as the case may be,

the Committee shall serve upon the proprietor of the school a notice of complaint stating the grounds of complaint and, unless any of the matters complained of is in

the opinion of the Committee irremediable, the measures necessary in the opinion of the Committee to remedy the matters complained of, and shall specify the time, not being less than six months after the service of the notice, within which such measures are thereby required to be taken.

(4) A person upon whom a notice of complaint is served may appeal therefrom to the Court which may –

- (a) order that the complaint be annulled;
- (b) order that the school in respect of which the notice of complaint was served shall be struck off the register;
- (c) order that the school shall be so struck off unless the measures specified in the notice are taken, to the satisfaction of the Committee, within a specified period;
- (d) disqualify the premises, or any part thereof, from being used as a school or from being used as a school for pupils exceeding such number or of such age or sex as may be specified;
- (e) where it is satisfied that a person who is the proprietor or a teacher in the school is not a proper person to be the proprietor of an independent school, or a teacher therein, as the case may be, disqualify that person from being such a proprietor or teacher, as the case may be.

- (5) If any person –
- (a) conducts an independent school which is not a registered school or a provisionally registered school;
 - (b) uses any premises for purposes for which they are disqualified by virtue of an order made under this section; or
 - (c) acts as the proprietor of an independent school, or accepts or endeavours to obtain employment as a teacher in any school, while he is disqualified from so acting or being so employed by virtue of an order made under this section

he shall be liable upon conviction to a fine not exceeding level 2 on the Sark uniform scale or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(6) If on the application of any person the Committee is satisfied that any disqualification imposed by an order made under this section is, by reason of any change of circumstances, no longer necessary, the Committee may by order remove the disqualification and any person aggrieved by the failure of the Committee to remove such a disqualification may appeal therefrom to the Court.

Miscellaneous

8. (1) It shall be the duty of the Committee to provide for the inspection, at regular appropriate intervals, of every school by a suitably qualified person authorised by the Committee in that behalf, and to cause a special inspection to be made by such a person whenever it appears to the Committee to be desirable

so to do.

(2) It shall be the duty of the Committee to provide for the medical inspection, at appropriate intervals, of pupils in attendance at every school by the Sark Medical Officer who may require the parent of any such pupil to submit the pupil for such medical inspection; and any person who fails without reasonable excuse to comply with any such requirement shall be liable on conviction to a fine not exceeding level 1 on the Sark uniform scale.

(3) The Committee shall present for the approval of Chief Pleas at its Michaelmas meeting a report on education in the Sark School.

Interpretation

9. (1) In this Ordinance, unless the context otherwise requires –

“the Court” means the Court of the S n schal of Sark;

“independent school” means any school at which full-time education is provided for five or more pupils of compulsory school age, not being a school maintained or funded in part or in whole by Chief Pleas;

“the island” means the island of Sark;

“parent”, in relation to any child, includes his guardian and any person who has actual custody of the child;

“proprietor”, in relation to any school, means the person or body of persons responsible for the management of the school, and for the purpose of the provisions of this Ordinance relating to applications for the registration of independent schools, includes any person or body of persons proposing to be so

responsible;

“the School” means the Sark School and/or such other school as may be prescribed for the purposes of this Ordinance by the Committee;

“school year” means the twelve month period commencing on 1st September in any year.

(2) A child is of compulsory school age for the purposes of this Ordinance if he has attained, or will during the relevant school term attain, the age of five years but he has not yet attained the age of fifteen years.

(3) The Interpretation (Guernsey) Law, 1948 shall apply to the interpretation of this Ordinance as if the same were an enactment in force in the Island of Guernsey.

Citation.

10. This Ordinance may be cited as the Education (Sark) Ordinance, 2003.