

ORDINANCE OF THE CHIEF PLEAS OF SARK

ENTITLED

The Reform (Elections of Conseillers) (General Provisions) (Sark) Ordinance, 2008 *

[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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* Sark Ordinance No. 168; as amended by the Reform (Sark) (Amendment) Law, 2010 (No. XIV of 2010); the Reform (Election of Conseillers) (General Provisions) (Amendment) (Sark) Ordinance, 2012 (Sark Ordinance No. 220); the Reform (Elections of Conseillers) (General Provisions) (Sark) (Amendment) Ordinance, 2016 (No. XI of 2016); Reform (Election of Conseillers) (General Provisions) (Sark) (Amendment) Ordinance, 2022 (No. VIII of 2022).

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ARRANGEMENT OF SECTIONS

1. Form of register of voters.
2. Form of application.
3. Objections.
4. ...
5. Nomination of candidates.
6. Place and times of polling.
7. Conduct of polling.
8. Voting.
9. Voting by incapacitated persons.
10. Counting of votes.
11. Invalid votes.
12. Publication of result of count.
13. Recount.
14. Destruction of voting papers.
15. Duty of election officials.
16. Oaths.
17. Offences.
18. Interpretation.
19. Repeals.
20. Citation.
21. Commencement.

SCHEDULE 1 Form of register of electors.

SCHEDULE 2 Forms of application for inscription in register of electors.

SCHEDULE 3 Form of nomination of candidate.

SCHEDULE 4 Form of oaths of allegiance and of office.

(Approved by Chief Pleas on 20th May, 2008.)

The Reform (Elections of Conseillers) (General Provisions) (Sark) Ordinance, 2008

THE CHIEF PLEAS OF SARK, in exercise of the powers conferred on them by sections 9, 26, 30, 40 and 49 of the Reform (Sark) Law, 2008^a, hereby order:

–

Form of register of electors.

1. The Register of Electors ("**the register**") to be [compiled and maintained] under section 29 of the Reform (Sark) Law, 2008 ("**the Law**") shall be in the form set out in Schedule 1.

NOTE

In section 1, the words in square brackets were substituted by the Reform (Elections of Conseillers) (General Provisions) (Amendment) (Sark) Ordinance, 2012, section 1(a), with effect from 4th July, 2012.

Form of application.

2. A person wishing to have his name inscribed in the register shall make application to the Greffier in the form set out in Schedule 2.

Objections.

3. (1) Any person may object to –
- (a) the inclusion of a name in the register, or

^a Order in Council No. V of 2008.

- (b) the exclusion of a name in the register, or
- (c) any correction made to the register,

by notice in writing, setting out the nature and grounds of his objection, delivered to the Greffier.

(2) The Greffier shall give a copy of the said notice in writing to any person appearing to him to be directly affected by the objection and, before determining that objection, shall afford to that person an opportunity to make written or oral representations.

Alterations to register.

4. ...

NOTE

Section 4 was repealed by the Reform (Elections of Conseillers) (General Provisions) (Amendment) (Sark) Ordinance, 2012, section 1(b), with effect from 4th July, 2012.

Nomination of candidates.

5. (1) The nomination of a person as a candidate for office as Conseiller shall be in the form set out in Schedule 3 to this Ordinance and shall be delivered to the returning officer during such period and times as the returning officer shall appoint in respect of any particular election, being a period ending not less than 10 days before the date appointed for the election, prior notice having been given in the official notice boxes and in [the Sark Gazette] of the period and times appointed for this purpose.

(2) Every such nomination shall be proposed and seconded by two persons whose names are inscribed on the Register in force at the date of that

election.

(3) Every such nomination shall be accompanied by a declaration in writing signed by the candidate stating that he is eligible under the provisions of the Law and, subject to subsection (4), that he is willing to serve as a Conseiller, if elected.

(4) A candidate may withdraw his consent to serve as a Conseiller by written notice delivered to the returning officer at any time before the end of the period appointed under subsection (1) for the delivery of nominations.

(5) Upon receipt of a nomination in accordance with this section the returning officer shall take all reasonable steps to satisfy himself that the nominated person is eligible to be elected at the election to which the nomination relates and, if he is so satisfied, shall sign the declaration on the nomination form declaring that the candidate has been duly nominated.

(6) The returning officer shall, not less than 7 days prior to the date fixed for the holding of an election, publish the nominations therefor by notice in the official notice boxes and in [the Sark Gazette].

NOTE

In section 5, the words in square brackets were substituted by the Reform (Elections of Conseillers) (General Provisions) (Sark) (Amendment) Ordinance, 2016, section 2, with effect from 10th November, 2016, subject to the savings provision in section 4 of the 2016 Ordinance.

Places and times of polling.

6. (1) At every election the returning officer shall establish one or more polling stations, which shall be open for polling during the period from 10 o'clock in the morning until 6 o'clock in the evening on the date fixed for the election

and during such additional hours as the returning officer shall prescribe.

(2) Not less than 21 days' notice of the date of the holding of an election and of the polling stations established and the polling hours fixed in accordance with subsection (1) shall be given in the official notice boxes and in [the Sark Gazette].

(3) Elections shall be by secret ballot.

NOTE

In section 6, the words in square brackets were substituted by the Reform (Elections of Conseillers) (General Provisions) (Sark) (Amendment) Ordinance, 2016, section 2, with effect from 10th November, 2016, subject to the savings provision in section 4 of the 2016 Ordinance.

Conduct of polling.

7. (1) The conduct of the poll shall be supervised by the Constable and by such other persons appointed as election officials for the purpose by the returning officer.

(2) Not less than two election officials shall be present at each polling station during polling hours.

(3) During polling hours no person shall enter the polling station except –

- (a) an elector, for the purpose of recording his vote,
- (b) a candidate or, in his absence, a person appointed by a candidate as his representative and notified to the returning officer prior to the day on which the election

is held,

- (c) the returning officer,
- (d) the Constable, and
- (e) the duly appointed election officials.

(4) The Constable shall regulate the admission of electors to the polling station.

(5) An elector shall leave the polling station immediately after recording his vote.

Voting.

8. (1) Before polling commences, the Constable shall examine each ballot box to ensure that it is empty and shall thereupon lock and seal each ballot box with a seal provided by the returning officer for such purpose and shall place in the custody of the election officials –

- (a) each ballot box duly locked and sealed,
- (b) the key to each such ballot box,
- (c) a stamp provided for the purpose of the election by the returning officer,
- (d) the unstamped voting papers, and
- (e) a copy of the Register.

(2) Voting shall be by means of voting papers and each such voting paper shall bear the name of every candidate for the office of Conseiller.

(3) A list of voters shall be kept by the election officials upon which shall be entered the names of every elector to whom a voting paper is delivered in respect of any election.

(4) An election official shall deliver a voting paper to each elector who attends at the polling station and whose name is duly inscribed on the Register, no doubt existing as to that elector's identity, such voting paper –

- (a) bearing on its counterfoil, which is retained by the election official, a number corresponding with the number allotted to that elector in the list of voters, and
- (b) having been marked with the stamp referred to in subsection (1)(c).

(5) At each polling station there shall be one or more compartments into one of which each elector shall go alone immediately after receiving his voting paper.

(6) An elector shall mark his choice of candidates by marking an "X" on the voting paper against their names and the voting paper shall then be folded by him so as to conceal the names shown thereon and placed in the sealed ballot box provided for the purpose.

(7) An elector shall not leave the polling station before having deposited his voting paper in a sealed ballot box and, having left, shall not be permitted to re-enter the polling station whether or not he has so deposited his voting paper.

(8) Any question regarding the identity of an elector shall be decided by the election officials present.

(9) At the end of polling hours the Constable shall forthwith –

(a) remove the ballot boxes, together with the keys thereof, from the custody of the election officials and deliver them into the custody of the scrutineers appointed under section 10 by the returning officer,

(b) take charge of the stamp, the seal and any unused voting papers and hold them at the disposal of the returning officer, and

(c) take charge of the list of voters and the counterfoils of the voting papers which shall be sealed in separate labelled packets and delivered to the Greffier and retained by him, sealed, until the voting papers have been destroyed or by order of the Court of the Seneschal.

Voting by incapacitated persons.

9. Notwithstanding the provisions of this Ordinance, electors who are physically incapable of recording their vote or who are unable to read may apply to an [election] official at the polling station who shall thereupon cause the vote of such elector to be marked on a voting paper in the manner directed by that elector and the voting paper placed in the relevant sealed ballot box, and the [election] official shall thereupon make a record in writing of his having done so, which record shall include the name and address of the incapacitated person, and the cause of his incapacity, and shall be delivered to the returning officer.

NOTE

In section 9, the words in square brackets were substituted by the Reform (Elections of Conseillers) (General Provisions) (Amendment) (Sark) Ordinance, 2012, section 1(c), with effect from 4th July, 2012.

Counting of votes.

10. (1) Prior to every election the returning officer shall appoint such number of persons as he shall think necessary as scrutineers to count the votes cast at that election.

(2) The counting of the votes shall begin as soon as reasonably possible after the end of polling hours.

(3) During the counting of the votes, no person shall be present except –

- (a) a candidate or, in his absence, a person appointed by a candidate as his representative and notified to the returning officer prior to the day on which the election is held,

- (b) the returning officer,
- (c) the scrutineers and any other person engaged in an official capacity in the business of counting the votes,
- (d) the Constable, and
- (e) any other person, with the consent of the returning officer.

Invalid votes.

11. A vote shall be invalid if –

- (a) the voting paper on which it is recorded bears, apart from the printed matter and one or more marks in the form of an "X", any mark which, in the opinion of the scrutineers counting the votes (which opinion shall be final) has not been made accidentally,
- (b) owing to the manner in which the voting paper on which it is recorded has been marked, there is in the opinion of the scrutineers counting the votes (which opinion shall be final) any reasonable doubt as to the intention of the elector,
- (c) the voting paper on which it is recorded bears a number of marks in the form of an "X" which exceeds the number of vacant seats,
- (d) the voting paper on which it is recorded is not the official voting paper issued in accordance with this

Ordinance, or

- (e) the voting paper on which it is recorded was not deposited in the ballot box,

and any voting paper on which an invalid vote is recorded shall be deemed to be a spoilt paper and shall be disregarded.

Publication of result of count.

12. As soon as reasonably possible after the votes in any election have been counted, the scrutineers shall report to the returning officer specifying the number of votes cast for each candidate and the number of spoilt papers, whereupon the returning officer shall publish the same by notice in the official notice boxes and in [the Sark Gazette].

NOTE

In section 12, the words in square brackets were substituted by the Reform (Elections of Conseillers) (General Provisions) (Sark) (Amendment) Ordinance, 2016, section 2, with effect from 10th November, 2016, subject to the savings provision in section 4 of the 2016 Ordinance.

Recount.

13. (1) Where in the first count in any election the total number of votes counted in respect of any successful candidate does not exceed by more than 5 votes the total number of the votes counted in respect of any unsuccessful candidate, a recount [of the votes cast for any such successful candidate, and of those cast for any such unsuccessful candidate,] shall be carried out in such place as the returning officer may direct, by scrutineers, not being the scrutineers who carried out the first count, appointed for the purpose by the returning officer.

[(1A) Any candidate may apply to the returning officer, within 24

hours of the publication of the result of the count, for a recount of all the votes cast in the election and, in the event that the returning officer declines such a request, such candidate may, within 24 hours of the notification of the returning officer's decision, make further application in that regard to the Court of the Seneschal, which may grant or dismiss his application; and the decision of the Court shall be final.]

(2) The provisions of sections 10(3) and 11 shall apply to [any recount].

(3) [On completion of a recount], the scrutineers shall report to the returning officer specifying the number of votes cast for each candidate and the number of spoilt papers, whereupon the returning officer shall publish the same by notice in the official notice boxes and in [the Sark Gazette].

(4) The result of [the final recount permitted by this section] shall be final and conclusive as to the result of the poll in respect of that election.

NOTES

In section 13,

the words in, first, square brackets in subsection (1), second, the first pair of square brackets in subsection (3) and, third, square brackets in subsection (4) were substituted and, fourth, subsection (1A) was inserted by the Reform (Sark) (Amendment) Law, 2010, section 2, respectively paragraph (a), paragraph (c), paragraph (d) and paragraph (b), with effect from 20th August, 2010;

the words in square brackets in subsection (2) were substituted by the Reform (Elections of Conseillers) (General Provisions) (Amendment) (Sark) Ordinance, 2012, section 1(d), with effect from 4th July, 2012;

the words in the second pair of square brackets in subsection (3) were substituted by the Reform (Elections of Conseillers) (General Provisions) (Sark) (Amendment) Ordinance, 2016, section 2, with effect from 10th November, 2016, subject to the savings provision in section 4 of the 2016 Ordinance.

Destruction of voting papers.

14. Upon the conclusion of the count of votes in any election, or any recount, the voting papers shall be retained by the Greffier in a locked box until the oaths of allegiance and of office have been administered to the successful candidates whereupon the voting papers shall be destroyed by him.

Duty of election officials.

15. Every election official, and all other persons discharging official duties under the provisions of this Ordinance, shall take all reasonable steps necessary to maintain the secrecy of the voting and shall not, during the voting, influence or attempt to influence any person as to the candidate or candidates for whom that person should or should not vote.

Oaths.

16. Before entering on their respective offices each elected Conseiller shall take before the Court of the Seneschal an oath of allegiance and an oath of office, or a solemn affirmation of allegiance and a solemn affirmation of office, in the form set out in Schedule 4 to this Ordinance.

Offences.

17. A person who –

- (a) enters the polling station at an election in contravention of section 7(3) of this Ordinance,
- (b) fails to leave the polling station in contravention of section 7(5) of this Ordinance,
- (c) causes a disturbance in the polling station during polling hours or during the counting of votes,

- (d) obstructs an elector, the returning officer, the Constable, an election official or any other person engaged in an official capacity in the business of the polling or counting of the votes,

is guilty of an offence and liable on conviction to a fine not exceeding level 4 on the Sark uniform scale.

Interpretation.

- 18.** (1) In this Ordinance, unless the context otherwise requires –

"election" means an election of Conseillers held under the Law,

"election officials" means, in relation to any election, those persons appointed as election officials by the returning officer under section 7,

[...]

"the Law" means the Reform (Sark) Law, 2008,

"the register" shall mean the Register of Electors prepared under section 29 of the Law,

"returning officer", in relation to any election, means [the person] who is the returning officer in respect of that election pursuant to section 24 of the Law,

[**"the Sark Gazette"** means the Sark Gazette Officielle published on the website of the Sark Gazette Officielle,]

"scrutineers" means, in relation to any election, the persons appointed under section 10 to count the votes cast at that election.

- (2) Unless the context otherwise requires –
- (a) a reference in this Ordinance to any other enactment is a reference to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment,
 - (b) a reference in this Ordinance to a numbered or lettered section, sub-section or Schedule is a reference to the section or sub-section of, or Schedule to, this Ordinance which is so numbered or lettered.

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

NOTE

In section 18,

the words omitted in the first pair of square brackets in subsection (1) were repealed and the definition of the expression "the Sark Gazette" therein was inserted by the Reform (Elections of Conseillers) (General Provisions) (Sark) (Amendment) Ordinance, 2016, section 3, with effect from 10th November, 2016;

the words in square brackets in the definition of the expression "returning officer" in subsection (1) were substituted by the Reform (Elections of Conseillers) (General Provisions) (Amendment) (Sark) Ordinance, 2012, section 1(e), with effect from 4th July, 2012.

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

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Repeals.

19. The Election of Deputies (Sark) Ordinances, 1952 and 1970 are repealed.

Citation.

20. This Ordinance may be cited as the Reform (Elections of Conseillers) (General Provisions) (Sark) Ordinance, 2008.

Commencement.

21. This Ordinance shall come into force on 1st September, 2008.

SCHEDULE 1
FORM OF REGISTER OF ELECTORS

Section 1

Register of Electors [...]

Register Number	Surname	Forenames	Postal Address

NOTE

In Schedule 1, the words omitted in square brackets were repealed by the Reform (Elections of Conseillers) (General Provisions) (Amendment) (Sark) Ordinance, 2012, section 1(f), with effect from 4th July, 2012.

brackets were substituted by the Reform (Election of Conseillers) (General Provisions) (Sark) (Amendment) Ordinance, 2022, section 1(1), respectively paragraph (a)(i) and paragraph (a)(ii), with effect from 18th November, 2022.¹

SCHEDULE 3

Section 5

FORM OF NOMINATION OF CANDIDATE

Nomination paper for a candidate for the office of Conseiller at the election to be held on (date)

WE, the undersigned, being persons whose names are inscribed in the register of electors, hereby nominate [NAME OF CANDIDATE], whose name is inscribed in the Register of Electors, to be a candidate for election as a Conseiller of the Chief Pleas of Sark. The said [name of candidate] has given his/her consent to his/her nomination and we request that s/he be declared duly nominated.

Proposed by [Name of Proposer] [Signature of Proposer]

Seconded by [Name of Seconder] [Signature of Seconder]

I hereby give my consent to be nominated as a candidate for election as a Conseiller of the Chief Pleas of Sark. I solemnly affirm that I am eligible to be so elected under the provisions of the Reform (Sark) Law, 2008.

.....

.....

Dated

Candidate

This nomination paper having been duly delivered by one of the above-named, the names of the proposer and seconder being inscribed in the register of electors and the name of the said [NAME OF CANDIDATE] being inscribed in the Register of Electors, I hereby declare [NAME OF CANDIDATE] to be duly nominated to stand as a candidate for election as a Conseiller of the Chief Pleas of Sark.

.....

Dated

.....

Returning Officer

FORM OF OATHS OF ALLEGIANCE AND OF OFFICE

Oath of Allegiance

"I, {NAME}, do swear by the faith and truth that I owe to God that I will be faithful and bear true allegiance unto [His Majesty King Charles III, his] heirs and successors, according to Law. So help me God."

Oath of Office

"You swear and promise upon the faith and truth that you owe to God that you will discharge faithfully and well the office of Conseiller of this Island and that you will perform promptly all and any duty appertaining to that office. So help you God."

Solemn Affirmation of Allegiance

"I, {NAME}, do solemnly, sincerely and truly declare and affirm that I will be faithful and bear true allegiance to [His Majesty King Charles III, his] heirs and successors, according to Law."

Solemn Affirmation of Office

"You solemnly, sincerely and truly declare and affirm that you will discharge faithfully and well the office of Conseiller of this Island and that you will perform promptly all and any duty appertaining to that office."

NOTE

In Schedule 4, the words "His Majesty King Charles III, his" in square brackets, wherever occurring, were substituted by the Reform (Election of Conseillers) (General Provisions) (Sark) (Amendment) Ordinance, 2022,

section 1(1)(b), with effect from 18th November, 2022.

1 The words in the third of square brackets were previously amended, in part, by the Reform (Elections of Conseillers) (General Provisions) (Amendment) (Sark) Ordinance, 2012, section 1(g)(ii), with effect from 4th July, 2012.