

# ORDER IN COUNCIL

**XIII  
2016**

ratifying a Projet de Loi

ENTITLED

## **The Fire Services (Sark) Law, 2016**

(Registered on the Records of the Island of Guernsey  
on the 5th December, 2016.)



2016



## ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 5th day of December, 2016 before John Russell Finch, Esquire, Judge of the Royal Court; present:- Susan Mowbray, Barbara Jean Bartie, John Ferguson, Esquire, Claire Helen Le Pelley, Peter Sean Trueman Girard, Esquire, Constance Helyar-Wilkinson, Terry George Snell, Esquire, Margaret Ann Spaargaren, Terry John Ferbrache, David Allan Grut, Jonathan Grenfell Hooley and David James Mortimer, Esquires, Jurats.

The Judge, having this day placed before the Court an Order of Her Majesty in Council dated 16th November, 2016 approving and ratifying a Projet de Loi of the Chief Pleas of Sark entitled “The Fire Services (Sark) Law, 2016”, THE COURT, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ORDERED that the said Order be registered on the records of the Island of Sark and on the records of this Island.

J. TORODE  
Her Majesty’s Greffier.



*At the Court at Buckingham Palace*

THE 16th DAY OF NOVEMBER 2016

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 Resolutions of 4th May 2011 and 13th July 2016 the Chief Pleas of the Island of Sark at a meeting on 13th July 2016 approved a Projet de Loi entitled the Fire Services (Sark) Law, 2016. 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 Fire Services (Sark) Law, 2016, 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 Fire Services (Sark) Law, 2016**

### ARRANGEMENT OF SECTIONS

#### PART I FIRE SERVICES

1. Provision of fire-fighting services.
2. Agreements for the provision of fire-fighting services.

#### PART II POWERS AND PRIVILEGES

3. Powers of members of the fire service and the Constable.

#### PART III FIRE PRECAUTIONS IN CONTROLLED PREMISES

4. Premises to which fire precautions apply.
5. Occupiers to provide means of escape, etc.
6. Action where means of escape, etc., not satisfactory.
7. Power of Committee to make regulations and codes.
8. Action where regulations contravened.
9. Power to prohibit use of dangerous premises.
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#### PART IV GENERAL PROVISIONS

12. Offences.
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16. Defences in certain cases.
17. Civil remedies not affected.
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20. Service of notices.
21. Information to be stated in notice.
22. Development and building.
23. Consultation between committees and other bodies.
24. Agreement to provide equipment or services.
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26. Extent of liability of the Chief Pleas.
27. Interpretation.
28. General provisions as to subordinate legislation.
29. Citation.
30. Commencement.

# PROJET DE LOI

ENTITLED

## **The Fire Services (Sark) Law, 2016**

**THE CHIEF PLEAS OF SARK**, in pursuance of their Resolutions of the 4<sup>th</sup> day of May, 2011 and the 13<sup>th</sup> day of July 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.

### PART I

#### FIRE SERVICES

##### **Provision of fire-fighting services.**

1. The Committee may make such arrangements for the provision of fire-fighting services as it thinks fit, having regard to –

- (a) the need for the provision of such services in the circumstances of Sark, and
- (b) the availability of funding with which to meet the cost of such services.

##### **Agreements for the provision of fire-fighting services.**

2. (1) Arrangements under section 1 may include agreements ("section 2 agreements") entered into by the Committee on behalf of the Chief Pleas with such persons as it thinks fit for the purpose of the provision of fire-fighting services in Sark.

(2) A section 2 agreement may (without limitation) be entered into with any provider of fire-fighting services outside Sark under the terms of which persons, who are not members of the fire service, may provide operational, advisory or any other manner of fire-fighting services in Sark.

(3) Any person providing fire-fighting services under or pursuant to a section 2 agreement –

- (a) shall, unless otherwise provided under the terms of that agreement, be subject to the authority and under the control of the Chief Fire Officer,
- (b) shall possess the powers and privileges of a member of the fire service under Part II, and
- (c) shall at all times be subject to the authority and jurisdiction of the Court in respect of their conduct in Sark.

PART II  
POWERS AND PRIVILEGES

**Powers of members of fire service and the Constable.**

3. (1) Any member of the fire service, when providing fire-fighting services, or the Constable, may enter, by force if necessary, any premises –

- (a) in which a fire has or is reasonably believed by such person to have broken out,
- (b) in which such person reasonably believes there to be an immediate danger of fire breaking out,
- (c) which it is necessary to enter for the purpose of fire-fighting or preventing fire or the spread thereof,
- (d) which it is necessary to enter for the purpose of protecting the premises from any act done for the purpose of fire-fighting or preventing fire or the spread thereof,

and may do anything which that member, or the Constable, as the case may be,

reasonably believes to be necessary for the purpose of fire-fighting, preventing fire or the spread thereof, or protecting any such premises from any act done for the purpose of fire-fighting or preventing fire or the spread thereof.

(2) When a fire breaks out, or there is an immediate danger of a fire breaking out –

(a) the fire officer in charge shall have sole charge and control of all operations for the purpose of fire-fighting or preventing fire or the spread thereof including (without limitation) –

(i) the fixing of the positions of fire appliances and apparatus,

(ii) the attaching of hoses to any fire hydrant, dry riser or water pipe,

(iii) the use of any water supply, and

(iv) the control of the direction of the water,

(b) the Constable, or in the absence of the Constable, the fire officer in charge, may close to traffic any public road and may stop or regulate the movement or flow of traffic in any public road whenever the Constable or fire officer in charge reasonably believes it to be necessary to do so for the purpose of fire-fighting or preventing fire or the spread thereof; and if the presence of any person or vehicle in any public road prevents or hinders operations for the purpose of fire-fighting or preventing fire or the spread thereof, the person or the vehicle may be removed by the Constable or any member of the fire service present.

(3) Any person who by virtue of subsection (2)(a) is required to

provide water for the purpose of fire-fighting or preventing fire or the spread thereof in the property of another person, is entitled to be compensated by the Chief Pleas for any pecuniary loss arising therefrom.

(4) Damage caused to any person or property by any member of the fire service, or the Constable, engaged in operations for the purpose of fire-fighting or preventing fire or the spread thereof, or exercising any power conferred by this section, shall be deemed, for the purposes of any policy of insurance against fire, to be damage caused by fire.

(5) Nothing in this section derogates from the power of the Constable arising independently of this Law to assist members of the fire service in the exercise of the powers conferred by this section.

(6) In this Part –

**"premises"** includes any building or part thereof, place, vessel, vehicle or aircraft, and

**"water supply"** includes a supply of water located, stored or flowing upon, below the surface of or through any privately owned land including, for the avoidance of doubt, any lake, pond or swimming pool.

### PART III FIRE PRECAUTIONS IN CONTROLLED PREMISES

**Premises to which fire precautions apply.**

4. (1) Subject to section 5, this Part of this Law applies to any premises ("**controlled premises**") which fall within any of the categories set out in subsection (2).

(2) The categories referred to in subsection (1) are –

(a) a dwelling the occupation of which is the subject of a short-term lease,

- (b) any premises which are used by an employer as, or for any purpose involving the provision of, sleeping accommodation for one or more persons employed by that employer,
- (c) any premises which are used as, or for any purpose involving the provision of, sleeping accommodation where such use would be prohibited without an accommodation permit granted pursuant to the provisions of the Tourism (Sark) Law, 1982<sup>a</sup>,
- (d) any premises comprising, or comprised within, a building which contains more than one set of premises, at least one of which sets of premises is used as, or for any purpose involving the provision of, sleeping accommodation, whether or not such premises providing sleeping accommodation would fall within paragraphs (a) to (c),
- (e) premises used for the purpose of providing treatment or care for persons requiring such treatment or care and providing sleeping accommodation for such persons,
- (f) premises used as, or as part of, a place in which child-minding facilities are provided,
- (g) premises used for the purposes of, or for any purpose involving –
  - (i) entertainment or recreation,

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<sup>a</sup> Ordres en Conseil Vol. XXVII, p. 576; Vol. XXIX, p. 488; Vol. XXXI, p. 320; No. XII of 2012; No. III of 2015; the Tourism (Accommodation Permits) (Sark) Ordinance, 2011.

- (ii) any club, society or association,
  - (iii) teaching, training or research,
  - (iv) the sale of food and drink for immediate consumption on the premises, or
  - (v) access to the premises by members of the public, whether on payment or otherwise,
- (h) premises used as, or as part of, a place in which space is provided for tented or other temporary accommodation,
- (i) premises used as, or as part of, a place in which are stored or used not less than –
- (i) 500 litres of flammable liquid with a flash point below 21 degrees Celsius,
  - (ii) 3,000 litres of flammable liquid with a flash point of 21 degrees Celsius or above,
  - (iii) 500 kilograms of liquid petroleum gas,
  - (iv) any toxic, flammable or compressed gases (excluding liquid petroleum gas),
  - (v) 25 kilograms of fireworks or pyrotechnics,
  - (vi) any pesticides or other plant protection products authorised for professional use,
- (j) premises used for the purpose of obtaining access to controlled premises, and

- (k) any premises designated for the purposes of this section by Ordinance.

(3) The Chief Pleas may by Ordinance amend subsection (2) so as to amend or add to the categories of premises which are controlled premises.

**Occupiers to provide means of escape, etc.**

5. (1) An occupier of controlled premises shall ensure that the premises are provided with –

- (a) such means of escape in case of fire,
- (b) such means for securing that the means of escape can be safely and effectively used at all times,
- (c) such means for fighting fire (whether the fire affects the premises or the means of escape) for use in case of fire, and
- (d) such means for giving to persons in the premises warning in case of fire, or in case of other hazards associated with fuel-burning appliances,

as may reasonably be required in the circumstances of the case, and shall ensure that such means are kept free from obstruction and properly maintained so that they can be safely and effectively used at all times.

(2) In determining, in respect of any premises, what means referred to in subsection (1) are reasonably required in the circumstances of the case, regard shall be had (amongst other things) to the number of persons who may reasonably be expected to be resorting to the premises at any time and to any regulations made, or codes of guidance issued, by the Committee under section 7.

(3) The occupier must make a regular, suitable and efficient assessment of the measures required to be taken in order to comply with the

requirements of this section and must ensure that appropriate information is made available to any person who is or may be lawfully on the premises concerning the measures taken in order to comply with such requirements.

**Action where means of escape, etc., not satisfactory.**

6. (1) Where the Committee is satisfied on the written report of the Chief Fire Officer that, in respect of controlled premises, there has been a contravention of section 5, the Committee shall serve on the person in default a notice requiring him, within the time specified in the notice, to take the steps specified therein (whether by way of making structural alterations to the premises or otherwise), being steps which, in the opinion of the Committee, are necessary to remedy the contravention.

(2) Where the steps required to be taken by a notice served under subsection (1) include the provision of any of the means referred to in section 5, the notice may, in addition, require the means specified in the notice to be kept free from obstruction and properly maintained so that they can be safely and effectively used at all material times.

**Power of Committee to make regulations and codes.**

7. (1) The Committee may –
- (a) by regulations specify precautions which the occupiers of controlled premises, or any specified class of such premises, are to take or observe to reduce the risk of fire or other hazards associated with fuel-burning appliances and the risk to persons in case of fire or such other hazards,
  - (b) prepare codes for the guidance of such occupiers containing recommendations as to the precautions which ought to be taken or observed to eliminate or reduce the risk of fire or other hazards associated with fuel-burning appliances and the risk to persons in case of fire or such other hazards, and

- (c) make such regulations, or prepare such codes of guidance which, in the opinion of the Committee, are necessary or desirable for the purpose of facilitating the provision by the Committee of fire-fighting services generally.

(2) Without prejudice to the generality of sub-section (1), regulations under this section may in particular, in respect of any premises to which they apply, make provision –

- (a) as to the standards which must be met by, and as to the provision, keeping free from obstruction, maintenance, testing and examination of –
  - (i) means of escape in case of fire or other hazards associated with fuel-burning appliances,
  - (ii) means of securing that any means of escape can be safely and effectively used at all material times,
  - (iii) means for fighting fire,
  - (iv) means of giving warning in case of fire or other hazards associated with fuel-burning appliances,
- (b) for prohibiting the presence or use in the premises of materials, substances, furniture or equipment of any specified description, or prohibiting its presence or use unless specified standards or conditions are complied with,
- (c) for securing that persons employed to work in the premises –

- (i) receive appropriate instruction or training in what to do in case of fire,
  - (ii) are familiar with the means of escape from the premises in case of fire and with the routine to be followed in case of fire,
  - (d) for securing that, in specified circumstances, specified numbers of attendants are stationed in specified parts of the premises,
  - (e) as to the keeping of records of instruction or training given, or other things done, in pursuance of the regulations, and
  - (f) as to the procedures to be observed and the precautions to be taken during the installation, removal or demolition of tanks or other containers of oil, liquid petroleum gas, or other explosive or flammable liquids or gases.
- (3) Regulations under this section –
- (a) may impose requirements on persons other than occupiers of premises to which they apply,
  - (b) may, in respect of any of their provisions, specify who is to be responsible for any contravention thereof.
- (4) Regulations and codes under this section shall be laid before a meeting of the Chief Pleas as soon as practicable, and if at that or the next meeting the Chief Pleas resolve to annul them, they shall cease to have effect, but without prejudice to anything done under them or to the making of any new regulations or codes.
- (5) The provisions of regulations and codes under this section are

in addition to, and not in derogation from, the provisions of section 5.

(6) Regulations and codes under this section may adopt or incorporate (by reference, annexation or otherwise), and may make provision by reference to, the provisions of codes of practice, circulars and other materials issued by Her Majesty's Government in the United Kingdom, or by the committee of the States of Guernsey responsible for such matters pursuant to the Fire Services (Guernsey) Law, 1989<sup>b</sup>, which provisions shall thereupon have the same force and effect as regulations or codes, as the case may be, under this section.

**Action where regulations contravened.**

8. (1) Where the Committee is satisfied on the written report of the Chief Fire Officer that, in respect of any controlled premises, there has been a contravention of regulations under section 7, the Committee shall, without prejudice to any proceedings under section 12 in respect of the contravention, serve on the person in default (or the person who, by virtue of regulations under section 7(3)(b) is responsible for the contravention) a notice requiring him, within the time specified in the notice, to take the steps specified therein (whether by way of making structural alterations to the premises or otherwise), being steps which, in the opinion of the Committee, are necessary to remedy the contravention.

(2) Where the steps required to be taken by a notice served under subsection (1) include the provision of any of the means referred to in section 7(2)(a), the notice may, in addition, require the means specified in the notice to be kept free from obstruction and properly maintained so that they can be safely and effectively used at all material times.

**Power to prohibit use of dangerous premises.**

9. (1) Where the Chief Fire Officer is satisfied that, in respect of any controlled premises, the risk of fire or the risk to persons in case of fire is so serious that, until steps have been taken to reduce the risk to a reasonable level, the use of the premises ought to be prohibited or restricted, he shall, without prejudice to any proceedings under section 12 in respect of the premises, serve on the

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<sup>b</sup> Ordres en Conseil, Vol. XXXI, p. 432; Vol. XXXVII, p. 454; No. V of 2015.

occupier of the premises and on such other persons as he thinks fit a notice prohibiting their use, or restricting their use to the extent appropriate in the circumstances of the case, until the steps specified in the notice, being steps which in his opinion are necessary to reduce the risk to a reasonable level, have been taken.

- (2) A notice served under subsection (1) –
  - (a) has effect immediately upon service,
  - (b) ceases to have effect on the expiration of 7 days after the day of service, unless previously extended or confirmed by the Committee under subsection (3).

(3) Where a notice has been served under subsection (1), the Chief Fire Officer shall as soon as reasonably practicable, and in any event within 7 days after service of the notice, refer the matter to the Committee which may –

- (a) cancel or modify the notice,
- (b) extend the period of effectiveness of the notice for a specified period not exceeding 14 days to enable the steps specified therein to be taken, or
- (c) confirm the notice and direct that the use of the premises in respect of which the notice relates is prohibited or restricted to such extent as may be specified in the notice until the specified steps have been taken,

and notice of such decision shall be served on the occupier.

(4) The Committee may withdraw a notice modified, extended or confirmed under subsection (3) at any time.

**Powers of fire inspector.**

**10.** (1) A fire inspector, on production of his authority if so required, may, subject to subsection (2), at any reasonable time enter any controlled premises, or any premises which he has reasonable cause to believe to be controlled premises and –

- (a) inspect the whole or any part of the premises and anything in them,
- (b) make such enquiry as is necessary to ascertain –
  - (i) whether the premises are controlled premises,
  - (ii) whether there is or has been, in respect of the premises, a contravention of section 5, any regulations under section 7, or any notice served under section 6(1), 8(1), or 9(1),
  - (iii) the identity of the occupier of the premises,
- (c) require any person in the premises to render such facilities and assistance as that person is able to render to enable the fire inspector to exercise his powers under this subsection,
- (d) take samples of any material or substance found thereon for the purposes of analysis.

(2) The power of entry conferred by subsection (1) is not exercisable in respect of a bedroom unless 24 hours' notice is given to the person in actual occupation of the premises concerned.

**Register of controlled premises.**

**11.** (1) The Committee shall prepare and maintain a register to be called the Register of Controlled Premises ("**the Register**").

(2) The Register shall contain, in respect of controlled premises, the information required to be stated under subsection (5), and such other information relating to controlled premises as the Committee considers necessary or expedient for the purposes of this Law.

(3) The Register is to be available for public inspection.

(4) A person who –

(a) at the commencement of this section, is an occupier of controlled premises,

(b) at any time thereafter –

(i) becomes, or ceases to be, an occupier of controlled premises,

(ii) is an occupier of premises which become or cease to be controlled premises,

shall, as soon as is reasonably practicable, and in any event within 28 days after commencement or the event mentioned in subsection (b), serve written notice of the fact on the Committee.

(5) A notice under subsection (4) shall state the address of the controlled premises in respect of which the notice is given, the name and address of the occupier and the use to which the premises are put and shall be accompanied by the prescribed fee.

#### PART IV GENERAL PROVISIONS

##### **Offences.**

12. A person who –

(a) intentionally obstructs or impedes –

(i) a member of the fire service,

(ii) the Constable, or

(iii) any other person,

engaged in operations for the purpose of fire-fighting services or preventing fire or the spread thereof and exercising any power conferred by section 3,

(b) without reasonable excuse gives or causes to be given a false alarm of fire to the fire service or to a member thereof or to a person providing fire-fighting services under or pursuant to a section 2 agreement,

(c) contravenes a requirement of a notice served on him under section 6(1) or 8(1) or a requirement of such a notice as modified on his appeal against the notice under section 18,

(d) contravenes a provision or requirement of regulations under section 7,

(e) where there has been a contravention of a provision or requirement of regulations under section 7, is responsible for the contravention by virtue of regulations under section 7(3)(b),

(f) being a person upon whom a notice under section 9 has been served, uses the premises, or causes or permits them to be used, in contravention of any prohibition or restriction imposed by the notice,

- (g) intentionally obstructs or impedes a fire inspector exercising any power conferred by section 10(1),
- (h) without reasonable excuse fails to reply to any enquiry made by a fire inspector under section 10(1)(b),
- (i) without reasonable excuse contravenes any requirement of a fire inspector under section 10(1)(c),
- (j) in reply to an enquiry made by a fire inspector under section 10(1)(b), or in a notice served on the Committee under section 11(4), gives any information which is false in any material particular,
- (k) discloses, otherwise than –
  - (i) in the performance of his duty, or
  - (ii) for the purposes of any legal proceedings (including an arbitration) or report of such proceedings,

any information obtained by him in any premises entered by him in the exercise of any power conferred by or under this Law,
- (l) without reasonable excuse, fails to serve notice in accordance with section 11(4) or serves such notice which does not state the information required to be stated under section 11(5), or
- (m) intentionally obstructs access by –
  - (i) a member of the fire service, or
  - (ii) a person providing fire-fighting services under

or pursuant to a section 2 agreement,

to a fire hydrant, dry riser or water pipe,

is, subject to section 16, guilty of an offence under this section and liable, on summary conviction, to a fine not exceeding level 5 on the uniform scale or, on conviction on indictment, to a fine, to imprisonment for a term not exceeding 2 years, or to both.

**Contraventions of codes.**

13. A contravention by any person of a provision of a code under section 7 does not of itself render him liable to civil or criminal proceedings, but the contravention may, in any proceedings in which there is in issue a liability or contention in relation to which the provision of the code appears to the Court to be relevant, be relied upon by any party to the proceedings as tending to establish or negative the liability or contention.

**Offences by bodies corporate.**

14. (1) Where an offence under section 12 committed by a body corporate, limited partnership with legal personality or foundation is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, controller, manager, secretary or other similar officer of the body corporate, any general partner in the case of a limited partnership, any foundation official or any person purporting to act in any such capacity, that officer or person as well as the body corporate, limited partnership or foundation (as the case may be) is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if were a director of the body corporate.

**Offences due to default of another person.**

15. Where the commission by any person of an offence under section 12 is due to the act or default of another person, the latter is guilty of the offence and may be proceeded against and punished accordingly, whether or not proceedings are

taken against the former.

**Defences in certain cases.**

16. (1) It is, subject to subsection (2), a defence for a person charged with an offence –

- (a) under section 12(c), (d), (e) or (f), to prove that he took all reasonable precautions and exercised all due diligence to avoid committing the offence,
- (b) under section 12(j), to prove that he did not know that the information was false and could not, with reasonable diligence, have obtained knowledge of that fact.

(2) Where the defence provided by subsection (1)(a) involves an allegation that the commission of the offence was due to the act or default of another person, the person charged may not, without the leave of the Court, rely on the defence unless, at least 7 days before the hearing, he serves written notice on Her Majesty's Procurer giving such information as to the identity of the other person as is in his possession.

(3) A person is not guilty of an offence under section 12(c) by reason of a contravention of any requirement of the notice in question occurring –

- (a) before the expiration of the time for appealing against the notice under section 18, or
- (b) where an appeal against the notice is instituted, before the determination of the appeal.

**Civil remedies not affected.**

17. The provision by this Law of a sanction for a contravention of this Law or any regulation or notice under it does not prejudice any civil remedy or right of action that may arise in respect of the contravention.

**Appeals.**

**18.** (1) A person aggrieved by a decision of the Committee under this Law may appeal to the Court.

(2) The grounds of an appeal under this section are that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(3) An appeal under this section shall be instituted –

- (a) within a period of 28 days, or such longer period as the Court may (on application for reasonable cause) determine, immediately following the date of the notice of the decision, and
- (b) by summons served on the Chairman of the Committee stating the grounds and material facts on which the appellant relies.

(4) 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,

and may (for the avoidance of doubt) modify the terms of any notice served on any person under this Law.

**Power of the Court to modify leases.**

19. (1) A person who, by reason of any term or condition of a lease, licence or other agreement, is prevented from executing or doing in respect of controlled premises any works or other thing the execution or doing of which is required by or under this Law may apply to the Court which may make such order modifying the lease, licence or agreement as it thinks just in the circumstances of the case.

(2) Where the execution or doing in respect of controlled premises of any works or other thing, the execution or doing of which is required by or under this Law, would involve a person who has an interest in the premises in expense or in increased expense which he alleges ought to be borne in whole or in part by another person who has an interest in the premises, he may apply to the Court which may make such order –

- (a) as to the persons by whom, and the proportions in which, the expense or increase is to be borne, and
- (b) for the modification of any term or condition of a lease, licence or other agreement relating to rent or other amounts payable in respect of the premises,

as the Court thinks just in the circumstances of the case.

**Service of notices.**

20. (1) Subject to the provisions of this section, a notice to be served under this Law is validly served –

- (a) on an individual, if delivered to him, or if left at, or sent by post to, his usual or last known place of abode,

- (b) on an unincorporated body, if served on any partner, manager or other similar officer thereof, or if left at, or sent by post to, its principal or last known principal place of business in Sark,
- (c) on a body corporate, if left at, or sent by post to, its registered office or its principal or last known principal place of business in Sark,
- (d) on Her Majesty's Procureur, if left at, or sent by post to, the Chambers of the Law Officers of the Crown,
- (e) on the Committee, if delivered to, or sent by post to, the office of the Committee.

(2) If a notice cannot be served in accordance with subsection (1) or cannot be so served within a reasonable time (regard being had to the circumstances of the case), it is validly served –

- (a) if published by notice on at least two occasions in the official notice boxes and in La Gazette Officielle, or
- (b) where the name or address of the person to be served cannot after reasonable enquiry be ascertained or where the circumstances of the case so require if delivered to some responsible person on the premises in question or, if there is no such person, if affixed to a conspicuous part of the premises.

(3) Where two or more persons are the occupiers of any premises, a notice served on one of them in accordance with this section shall, for the purposes of this Law, be deemed to have been validly served on all of them.

(4) Where the occupier of any premises is an infant or a person under guardianship, a notice to be served on him under this Law shall be served on

his guardian; and if there is no guardian, the Committee may apply to the Court for the appointment of a guardian to act for the purposes of this Law.

(5) In subsection (1), the expression "**by post**" means by recorded delivery service or ordinary letter post.

**Information to be stated in notice.**

21. A notice under section 6(1), 8(1) or 9(1) shall, in addition to stating the matters which are to be stated under those sections –

- (a) identify the premises in respect of which it is served,
- (b) give particulars of the facts by reason of which it is served,
- (c) state the right of appeal to the Court under section 18, and the time within which it may be exercised, and
- (d) state the capacity in which the person served with the notice is served.

**Development and building.**

22. No obligation, requirement, prohibition or restriction imposed by this Law, or by any regulation or notice under it, relieves any person of any obligation, requirement, prohibition or restriction imposed from time to time by or under the Development Control (Sark) Law, 1991<sup>c</sup>, the Tourism (Sark) Law, 1982 or any other enactment.

**Consultation between committees and other bodies.**

23. (1) When plans are deposited with the Development Control Committee –

- (a) in respect of the proposed erection, extension or alteration of any premises, or

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<sup>c</sup> Ordres en Conseil Vol. XXXIII, p. 155, Order in Council No. X of 2009.

- (b) in respect of a proposed change of use of any premises,

and it appears to the Development Control Committee that the premises, as erected, extended or altered, or as used in accordance with the proposed change of use, will be controlled premises, the Development Control Committee shall (except where the Development Control Committee is also the Committee appointed by resolution of the Chief Pleas under section 27(1)) consult the Committee before approving the plans.

(2) When under any enactment an application is made to an Authority –

- (a) for the grant or renewal of a licence or permit in respect of any premises, or
- (b) for the registration of any premises,

and it appears to the Authority that, if the application succeeds, the premises will be controlled premises, the Authority shall consult the Committee before granting the application.

(3) Upon being consulted on any application under subsection (1) or (2), the Committee may require the payment of the prescribed fee before giving its views on the application.

(4) When it is proposed to serve a notice under section 6(1) or 8(1) requiring the execution of works on any premises, the Committee shall (except where the Development Control Committee is also the Committee appointed by resolution of the Chief Pleas under section 27(1)) consult the Development Control Committee before serving the notice.

(5) In subsection (2), "**Authority**" includes –

- (a) any authority, board, committee, council, or like body

of the Chief Pleas,

- (b) the Court, and
- (c) any body, corporation, commission or like body created by virtue of any enactment.

**Agreement to provide equipment or services.**

**24.** The Chief Pleas may by Ordinance make provision enabling the Committee, by written agreement with any person, to provide such services, including (without limitation) -

- (a) the provision of equipment on hire or loan,
- (b) any service in connection with any equipment,
- (c) the inspection, testing or maintenance of fire or smoke alarm systems or emergency lighting, or of equipment used for fire-fighting,
- (d) the inspection of, and consultation in relation to, controlled premises,
- (e) training or consultation in relation to fire safety and related matters,
- (f) preliminary assessment of or consultation in relation to any application of the kind mentioned in section 23,

as the Chief Pleas think fit, upon payment of such fees or charges as may from time to time be prescribed.

**Recovery and waiver of fees.**

25. (1) The Committee may recover any fee payable under this Law as a civil debt due and payable to the Chief Pleas.

(2) The Committee may at any time in its absolute discretion waive or reduce any fee payable under this Law.

**Extent of liability of the Chief Pleas.**

26. Subject to section 3(3), no liability in law is incurred by the Chief Pleas in respect of anything done or omitted to be done in the discharge or purported discharge of any function under this Law, including the giving of advice, unless –

- (a) the thing is done or omitted to be done maliciously or in bad faith,
- (b) the function is one to be discharged under this Law by an occupier of controlled premises, or
- (c) the thing done comprises the driving of a motor vehicle.

**Interpretation.**

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

"Assistant Constable" means a person appointed by the Chief Pleas to act as an Assistant Constable pursuant to section 53 of the Reform (Sark) Law, 2008<sup>d</sup>,

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<sup>d</sup> Order in Council No. V of 2008; as amended by Orders in Council No. VI of 2008; No. XXVII of 2008; No. XIV of 2010; No. XII of 2011.

"**body corporate**" means a body of persons, of whatever description, incorporated with or without limited liability in any part of the world,

"**Chief Fire Officer**" means the person authorised in writing by the Committee to discharge the functions of the Chief Fire Officer of the fire service for the purposes of this Law, and shall, in the absence or incapacity of such person, include the person authorised in writing by the Committee to discharge such functions in the absence or incapacity of the Chief Fire Officer,

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

"**the Committee**" means the Emergency Services Committee, or such committee as the Chief Pleas may from time to time by resolution appoint under section 44 of the Reform (Sark) Law, 2008 to carry out functions under this Law,

"**the Constable**" means a person appointed by the Chief Pleas to act as Constable pursuant to section 52 of the Reform (Sark) Law, 2008 and shall include the Vingtenier, an Assistant Constable, a special constable and a Guernsey police officer on duty in Sark,

"**contravention**" includes failure to comply and cognate expressions shall be construed accordingly,

"**controlled premises**" - see section 4,

"**Court**" means the Court of the Seneschal,

"**dwelling**" means any premises, or any part of any premises, which is used for the purposes of human habitation as a separate unit,

"**enactment**" means a Law, an Ordinance and any subordinate

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legislation,

**"escape"**, in relation to any premises, means escape from the premises, and any area enclosed by or with the building, to a place of safety,

**"fire-fighting"** includes –

- (a) the extinction of fire, and
- (b) the protection of life and property in the case of –
  - (i) fire,
  - (ii) other hazards associated with fuel-burning appliances,
  - (iii) the spillage or escape of any noxious substance, or
  - (iv) other emergency circumstances including, by way of example and not limitation, road traffic and other accidents, flooding and other incidents concerning chemical, biological, radiological and nuclear defence,

including (for the avoidance of doubt) any such cases occurring in the marine environment,

**"fire-fighting services"** means services relating to fire-fighting including (without limitation) the prevention and detection of fire and other hazards associated with fuel-burning appliances,

**"fire inspector"** means the Chief Fire Officer or any person authorised in writing by the Committee to discharge the functions of a fire inspector under this Law,

"**fire officer in charge**" means the senior member of the fire service present, determined according to rank,

"**fire precautions**" includes any of the matters set out in section 5(1),

"**the fire service**" means the Sark Fire and Rescue Service,

"**furniture**" includes furnishings, coverings for walls, ceilings and floors and curtains, drapes and blinds,

"**Guernsey police officer**" means a member of the salaried police force of the Island of Guernsey,

"**Her Majesty's Procureur**" includes Her Majesty's Comptroller,

"**member of the fire service**" means a person authorised in writing by the Committee to discharge the functions of a member of the fire service for the purposes of this Law,

"**occupier**" means, in relation to any premises –

- (a) where the premises fall within section 4(2)(a), the landlord,
- (b) where the premises fall within section 4(2)(b), the employer,
- (c) where the premises fall within section 4(2)(c), the person in whose name the accommodation permit is, or should be, granted,

and in any other case shall mean the person in actual occupation of the premises; and where two or more persons are included in this definition any obligations imposed on them by or under this Law shall be joint and several,

"**premises**" –

- (a) in Part II, has the meaning given in section 3(6),
- (b) in section 4(2)(h), means land,
- (c) in all other cases, means a building or part of a building, including a temporary or moveable building; and any structure, whether permanent or temporary, including (for the avoidance of doubt) any tent, shed, van or similar structure, used as sleeping accommodation or for any of the purposes set out in section 4(2)(c) to (k),

**"the prescribed fee"** means such fee as may from time to time be prescribed by regulations of the Committee,

**"public road"** means any road, street, lane, way or place which is public or to which the public has right of access,

**"section 2 agreement"** means an agreement entered into by the Committee under section 2,

**"short-term lease"** means a contract whereby the tenant, duly performing and observing the obligations and conditions of the lease, is entitled to enjoy exclusive occupation and peaceful possession of a dwelling, free from interference by the landlord, or other persons claiming under the landlord, for a term certain not exceeding three years or a lease for which the principal consideration moving from the tenant is payment of a periodic rent at intervals of one year or less,

**"special constable"** means a person appointed to act as a special constable pursuant to section 54 of the Reform (Sark) Law, 2008,

**"subordinate legislation"** means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any

statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

"**uniform scale**" means the scale of fines for offences set out in the Uniform Scale of Fines (Sark) Law, 1989<sup>e</sup>,

"**Vingtenier**" means the person appointed to act as Vingtenier pursuant to section 52 of the Reform (Sark) Act, 2008.

(2) The provisions of the Interpretation (Guernsey) Law, 1948<sup>f</sup> shall apply to the interpretation of this Law as they apply to the interpretation of a Guernsey enactment.

- (3) Unless the context otherwise requires –
- (a) any reference in this Law to an enactment shall include a reference thereto as from time to time amended, repealed, replaced, extended or applied, and
  - (b) any reference in this Law to the carrying out of a function includes the exercise of a power.

**General provisions as to subordinate legislation.**

28. (1) An Ordinance, regulation or code under this Law -
- (a) may be amended or repealed by a subsequent Ordinance, regulation or code hereunder, and
  - (b) may contain such consequential, incidental, supplementary, savings and transitional provision as may appear to be necessary or expedient, including provision amending any enactment.

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<sup>e</sup> Ordres en Conseil Vol. XXXI, p. 320.

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

(2) Any power conferred by this Law to make an Ordinance, regulation or code may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (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 class of case for different purposes,
  - (iii) any such provision either unconditionally or subject to any prescribed conditions.

**Citation.**

29. This Law may be cited as the Fire Services (Sark) Law, 2016.

**Commencement.**

30. This Law shall come into force on a date to be appointed by Ordinance of the Chief Pleas, and different days may be appointed for different provisions of this Law and for different purposes.





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