

ORDINANCE OF THE CHIEF PLEAS

ENTITLED

The Education (Sark) Ordinance, 2003 *

[CONSOLIDATED TEXT]

NOTE

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* No. ***; as amended by the: Education (Sark) (Amendment) Ordinance, 2018 (Sark Ordinance No. IX of 2018); Education (Sark) (Amendment) Ordinance, 2019 (Sark Ordinance No. X of 2019); Education (Sark) (Amendment) Ordinance, 2020 (Sark Ordinance No. IV of 2020); Education (Sark) (Amendment) Ordinance, 2023 (Sark Ordinance No. V of 2023).

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ARRANGEMENT OF SECTIONS

1. Education Committee.
2. System of education.
3. Duty of parents to secure the education of their children.
- 3A. Fees for senior school children.
4. School attendance and senior school education orders.
5. Duty of parents to secure regular attendance of registered pupils.
6. Powers of Committee to exclude pupils.
7. Independent Schools.
8. Miscellaneous.
9. Interpretation.
10. Citation.

(Approved by Chief Pleas on 1st October, 2003.)

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, 2001^a, 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 constitution of the Committee shall be as Chief Pleas resolve from time to time.]

(3) ...

(4) ...

(5) ...

NOTE

In section 1, first, subsection (2) was substituted and, second, subsection (3), subsection (4) and subsection (5) were repealed by the Education (Sark) (Amendment) Ordinance, 2019, section 2, respectively paragraph (a) and paragraph (b), with effect from 2nd October, 2019.

System of education.

^a Order in Council No. XIII of 2001.

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 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 thirteen years (hereinafter referred to as "**children aged 5-13**"), and

(b) such support, financial or otherwise, as the Committee thinks fit in respect of the provision of full-time education suitable for children who will, during the relevant school year, have attained the age of fourteen years up to and including children who will, during the said school year, have attained the age of sixteen years (hereinafter referred to as "**senior school children**", and "**senior school child**" shall be construed accordingly).]

(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 [sixteen] years, to the extent required by subsection (1), is available to meet the needs of the population.

(3) [Except as provided by subsections (3A) and (3B), 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.

[(3A) The Committee may approve one or more schools in Guernsey [or the United Kingdom] for the purposes of enabling senior school children to attend such schools, and thereby receive an efficient education.]

[(3B) Where the Committee has approved a school under subsection (3A) –

- (a) it shall provide such financial assistance to the parents of such children in respect of their attendance at the school as it thinks fit, and such assistance may include the funding of tuition and exam fees, in whole or in part, and
- (b) in relation to a school in Guernsey, it may at its discretion, where practicable and in consultation with the parents of the children in question, arrange appropriate board and lodging in Guernsey, and transport to and from Guernsey, for and in respect of senior school children attending the school.]

(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.

[(6) The Committee may, but is under no obligation to, provide educational facilities for children who are not of compulsory school age but who have attained the age of three years, and in such a case a child may, at the discretion of the Committee, be admitted to the School at the beginning of any school term after the child has attained such age.]

NOTES

In section 2,

first, paragraph (a) and paragraph (b) of subsection (1) and, second, the words in square brackets in subsection (3) were substituted and, third, subsection (3A) was inserted by the Education (Sark) (Amendment) Ordinance, 2019, respectively section 3, section 4(a) and section 4(b), with effect from 2nd October, 2019;¹

first, the word in square brackets in subsection (2) was substituted and, second, subsection (6) was inserted by the Education (Sark) (Amendment) Ordinance, 2018, respectively section 2 and section 3, with effect from 4th July, 2018;

first, the words in square brackets within subsection (3A) were inserted and, second, subsection (3B) (which was originally inserted by the Education (Sark) (Amendment) Ordinance, 2019, section 4(b), with effect from 2nd October, 2019) was substituted by the Education (Sark) (Amendment) Ordinance, 2023, section 2, respectively paragraph (a) and paragraph (b), with effect from 19th April, 2023.

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.

[(3) Where a parent of any senior school child elects to cause that child to receive home education, the Committee shall provide such support as it thinks fit for an efficient system of home education for that child, which may include, at the discretion of the Committee and as specified in an annual individual education plan for each child agreed between the child's parent and a representative of the Committee –

- (a) online tuition,
- (b) funding of exam fees (in whole or in part), and
- (c) the provision of supervised premises for independent study.]

NOTE

In section 3, subsection (3) was inserted by the Education (Sark) (Amendment) Ordinance, 2019, section 5, with effect from 2nd October, 2019.

[Fees for senior school children.]

3A. (1) The Committee may from time to time prescribe fees for the purpose of recovering all or some of the costs of providing –

- (a) board, lodging and transport arranged by the Committee under section 2(3B)(a), [...]
- (b) supervised premises for independent study[, and]
- [(c) premises, equipment and supervision arranged by the Committee under section 4(2A).]

(2) The Committee shall prescribe fees under this section by publishing them on the website of the Chief Pleas, and when doing so it may also prescribe –

- (a) the period for payment of such fees before interest accrues thereon,
- (b) the interest payable in the event of late payment of fees, and
- (c) the persons by whom such fees and interest are to be payable.

(3) The Committee will review the level of fees prescribed under this section at least once a year, and shall present for the approval of Chief Pleas at its Michaelmas meeting a report on fees charged.]

NOTES

Section 3A was inserted by the Education (Sark) (Amendment) Ordinance,

2019, section 6, with effect from 2nd October, 2019.

In section 3A, first, the word omitted in square brackets at the end of paragraph (a) of subsection (1) was repealed, second, the word and punctuation in square brackets at the end of paragraph (b) thereof was substituted, and paragraph (1)(c) was inserted by the Education (Sark) (Amendment) Ordinance, 2020, section 2, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 8th July, 2020.

School attendance [and senior school education] 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 [–

(a) in relation to children aged 5-13, 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 7 days of service of the school attendance order to cause the child to become a registered pupil at the School, and]

[(b) in relation to senior school children, the Committee may –

- (i) cause an order (hereinafter referred to as a "**senior school education order**"), in such form as the Committee may prescribe, to be served upon the parent requiring him within 14 days of service of the senior school education order to make suitable provision for the child's education to the satisfaction of the Committee, or
- (ii) provide such support as it thinks fit in order to assist the parent to make suitable provision for the senior school child's education.]

[(2A) The support that the Committee may provide to a parent under subsection (2)(b)(ii) may, at the discretion of the Committee, include (but is not limited to) –

- (a) premises at which a child must attend during school hours,
- (b) equipment at the premises for the child's use,
- (c) a supervisor (to assist the child and to supervise the child's attendance at the premises), or
- (d) without prejudice to section 2(3B), the making of arrangements for the child to attend an approved school in Guernsey.

(2B) The reference to "**school hours**" in subsection (2A)(a) is a

reference to the hours of 08:30 to 16:30.]

(3) If a parent upon whom a school attendance order [or a senior school education 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 [or senior school education 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.

NOTE

In section 4,

first, the words in square brackets in the section heading, second, the symbol and words in square brackets in subsection (2), third, the words in square brackets in subsection (3) and, fourth, the words in square brackets in subsection (5) were inserted by the Education (Sark) (Amendment) Ordinance, 2019, section 7, respectively paragraph (a), paragraph (b), paragraph (c) and paragraph (d), with effect from 2nd October, 2019;

first, subsection (2)(b) (which was previously inserted by the Education (Sark) (Amendment) Ordinance, 2019, section 7(b), with effect from 2nd October, 2019) was substituted and, second, subsection (2A) and subsection (2B) were inserted by the Education (Sark) (Amendment) Ordinance, 2020, section 3, respectively paragraph (a) and paragraph (b), with effect from 8th July, 2020.

Duty of parents to secure regular attendance of registered pupils.

5. If any child [...] 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.

NOTE

In section 5, the words omitted in square brackets were repealed by the Education (Sark) (Amendment) Ordinance, 2019, section 8, with effect from 2nd October, 2019.

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 [Chairman] 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.

NOTE

In section 6, the word in square brackets was substituted by the Education (Sark) (Amendment) Ordinance, 2019, section 9, with effect from 2nd October, 2019.

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 –

["**children aged 5-13**": see section 2(1)(a),]

"**the Court**" means the Court of the S n schal of Sark,

["**Guernsey**" means the island of Guernsey,]

["**home education**" means education which is provided on the island otherwise than by regular attendance at the School or an independent school,]

"**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,

["**online tuition**", in relation to any senior school child, means tuition suitable to that child's age, ability and aptitude, and any special educational needs which he may have, provided and delivered over the internet,]

"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;

[**"senior school child"** and **"senior school children"**: see section 2(1)(b).]

[(2) Subject to subsection (2A), a child is deemed to be of compulsory school age for the purposes of this Ordinance if the child has attained, or will during the relevant school year attain, the age of five years, and has not yet attained the age of sixteen years.

(2A) Any child who –

- (a) attains the age of sixteen years at any time from the beginning of a school year up to and including the last Friday in June in that school year shall be deemed not to have attained that age until the end of that last Friday in June, or

- (b) is to attain the age of sixteen years at any time after the last Friday in June in a school year but before the beginning of the next school year shall be deemed to have attained that age at the end of that last Friday in June.]

(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.

NOTES

In section 9,

the definitions of the expressions "children aged 5-13", "Guernsey", "home education", "online tuition" and "senior school child" and "senior school children" were inserted by the Education (Sark) (Amendment) Ordinance, 2019, section 10, with effect from 2nd October, 2019;

subsection (2) was substituted and subsection (2A) inserted by the Education (Sark) (Amendment) Ordinance, 2018, section 4, with effect from 4th July, 2018.

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.

Citation.

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

NOTE

The Ordinance was made and came into operation on 1st October, 2003.

1 Paragraph (b) of subsection (1) was previously amended by the Education (Sark) (Amendment) Ordinance, 2018, section 2, with effect from 4th July, 2018.