

ORDINANCE OF THE CHIEF PLEAS OF SARK

Ordinance No. II of 2024

ORDINANCE OF THE CHIEF PLEAS

ENTITLED

**The Charities and Non Profit Organisations
(Registration) (Sark) (Amendment) Ordinance, 2024**

THE CHIEF PLEAS OF SARK, in pursuance of their Resolution of the 10th day of April, 2024, and in exercise of the powers conferred upon them by section 10(1), (3) and (4) of the Charities and Non Profit Organisations (Registration) (Sark) Law, 2010^a, and of all other powers enabling them in that behalf, hereby order:-

Amendment of the Schedule to the Law.

1. (1) The Schedule to the Charities and Non Profit Organisations (Registration) (Sark) Law, 2010 ("**the Law**") is amended as follows.

(2) Before paragraph 1 insert the heading -

"PART I

THE REGISTER, REGISTRATION, ETC."

(3) At the start of paragraph 2(3) insert "Subject to subparagraph (3A)", and after paragraph 2(3), insert -

"(3A) Items (a)(i) and (ii) and (b) of subparagraph (3) do not

^a Order in Council No. VI of 2010; this enactment has been amended.

apply in circumstances where the person in question exercises managerial functions in respect of, or is a beneficial owner of, a legal person incorporated in Guernsey or Alderney."

(4) For paragraph 2(5), substitute -

"(5) In this Schedule an "**international organisation**" means a registered organisation the activities of which involve raising or distributing assets outside the Bailiwick, other than distributions of assets that -

(a) comprise expenditure incidental to the activities of the relevant entity,

(b) in the case of a registered organisation established for or in support of purposes within the Bailiwick, comprise occasional distributions of physical items such as clothing or equipment for or in support of those same purposes to parties outside the Bailiwick,

(c) are made in connection with the provision of medical, educational or other assistance to or for the benefit of an individual whose principal place of residence -

(i) is within the Bailiwick, or

(ii) would be within the Bailiwick but for the fact that his or her presence

elsewhere is necessary for the purpose of receiving or benefiting from the assistance in question,

and for the avoidance of doubt, it is immaterial whether the distributions are made to the individual receiving the assistance in question or to a third party, whether that be the person providing the assistance or otherwise, or

(d) are *de minimis*."

(5) After paragraph 4, insert -

"Prohibition on ownership etc. of international organisations.

4A. (1) Subject to subparagraphs (2) to (4), a person who -

(a) has been convicted of a criminal offence, whether in the Bailiwick or elsewhere,

(b) is the subject of a disqualification order made under any of the following enactments -

(i) the Companies (Guernsey) Law 1994,

(ii) the Companies (Alderney) Law, 1994,

(iii) the Companies (Guernsey) Law, 2008,

(iv) the Foundations (Guernsey) Law, 2012
or

(v) the Limited Liability Partnerships
(Guernsey) Law, 2013,

(c) is disqualified, by reason of misconduct or
unfitness, from acting as a director or similar
managing official under the law of a country or
territory outside Guernsey or Alderney, or

(d) is a minor,

may not own, control or direct the activities of an international organisation.

(2) Subparagraph (1)(a) does not apply to convictions that
are spent within the meaning of the Rehabilitation of Offenders (Bailiwick of
Guernsey) Law, 2002.

(3) The Registrar may decide to disapply subparagraph
(1)(a) in the case of any person, upon the application of that person or a third
party.

(4) A person ("P") who is subject to a disqualification
under subparagraph (1)(c) may make an application to the Court for an order
that, subject to such terms and conditions as the Court may direct, the
prohibition or restrictions under that disqualification shall not apply to P for
the purposes of this paragraph, on the same grounds and subject to the same
considerations, where relevant, as would apply under sections 137(2A) and

137(2B) of the Companies (Guernsey) Law, 2008 if the application had been made in respect of acting as director under that Law.

(5) An international organisation and its officers shall take all reasonable care to ensure that none of its functions in relation to the carrying on of any activities of the international organisation is performed by a person who is disqualified from performing that function under subparagraph (1).

(6) A person who without reasonable excuse owns, controls or directs the activities of an international organisation in contravention of this paragraph is guilty of an offence and liable to a civil penalty.

(7) Subject to section 7A, a person guilty of an offence under subparagraph (6) is liable on conviction to a fine not exceeding level 4 on the uniform scale.

(8) In this paragraph, "**the Court**" means the Court of the Seneschal."

(6) For paragraph 7, substitute -

"Refusal of registration.

7. (1) If, on receipt of an application for registration the Registrar -

(a) is not satisfied that the subject of the application ("**the subject**") is a charity or other non profit organisation,

- (b) is not satisfied that the subject is based in Sark,
- (c) considers that the application contains no, or insufficient, information about the purpose, control or governance of the subject if the subject is an international organisation,
- (d) considers that the proposed name of the subject could be misleading as to the subject's purpose,
- (e) considers that the control and governance of the subject or its assets is unlikely to be adequate,
- (f) considers that a person who owns, controls or directs the activities of the subject is prohibited from acting as such under paragraph 4A,
- (g) considers that any of the persons owning, controlling or directing the activities of the subject are unlikely to ensure that the obligations applicable to the subject under this Law are met, or
- (h) otherwise considers that it would not be in the public interest to register the subject,

the Registrar may refuse the application for registration.

(2) Before determining an application for registration, the Registrar may require the subject or any person acting on behalf of the subject to provide further information or clarification including, without limitation, documentary proof of any of the facts stated in the application."

(7) After paragraph 7, insert -

"PART II
GOVERNANCE OBLIGATIONS FOR INTERNATTIONAL
ORGANISATIONS: GENERAL

"Constitutional documents.

7A. (1) Subject to the provisions of this paragraph, an international organisation must have a written constitution or other governing document that makes provision for the matters set out in the Schedule to the Charities etc. (Amendments, Exemptions, Governance and Specified Amount) (Guernsey and Alderney) Regulations, 2022 ("**the required information**").

(2) For the purposes of subparagraph (1), the required information may be contained in more than one governing document, and in those circumstances all such governing documents are included in references in this Law to a governing document of an international organisation.

(3) An international organisation must -

(a) provide a copy of its constitution or other governing document to the Registrar when applying for registration, and

- (b) notify the Registrar of any change to the constitution or other governing document provided under item (a), within 21 days of the change occurring.

(4) References in this Schedule to the members, boards and named officers of international organisations include trustees, committee members or any other parties howsoever described whose functions, powers and duties correspond to those ascribed to members, boards and named officers in this Law.

(5) Where an international organisation is a local branch -

- (a) references to a constitution or other governing document include the constitution or other governing document of its British parent organisation ("**the parent constitution**"),
- (b) subject to any relevant direction made under this regulation, the local branch is only required to have a governing document in addition to the parent constitution to the extent necessary to make provision for any aspects of the required information for which provision is not made within the parent constitution, and
- (c) the Registrar may direct that the required information or any part of the required

information is modified or disapplied in relation to a local branch.

(6) Where an international organisation notifies the Registrar that -

- (a) an aspect of the required information ("**the relevant aspect**") is not permitted by the terms of any statute, deed, or other instrument that is applicable to the international organisation on the date on which this paragraph comes into force ("**the conflicting requirement**"), and
- (b) it does not have the power to remove, amend or otherwise modify the conflicting requirement so as to permit compliance with the relevant aspect,

the Registrar may direct that the relevant aspect does not apply to the international organisation for as long as the conflicting requirement remains applicable to it.

(7) Without prejudice to subparagraphs (5) and (6), where an international organisation is administered, directed or controlled by a corporate services provider in its capacity as such -

- (a) paragraphs 13, 14(a) and 15 to 18 of the Schedule to the Charities etc. (Amendments, Exemptions, Governance and Specified

Amount) (Guernsey and Alderney) Regulations, 2022, as they have effect by virtue of subparagraph (1), do not apply, and

- (b) references to the board or to members of the board elsewhere in this Law are to be read as references to the corporate services provider in question.

(8) In this Schedule, a "**British parent organisation**" is an organisation -

- (a) that is registered with the Charity Commission for England and Wales, with the Scottish Charity Regulator or with the corresponding authorities in Jersey or the Isle of Man, and
- (b) to which the registered organisation is affiliated.

(9) In this Schedule, a registered organisation is a "**local branch**" if -

- (a) the only activity which it carries out within the Bailiwick is to -
 - (i) raise or accept funds or other assets, or
 - (ii) provide services or facilities,

for or on behalf of a British parent organisation,
and

- (b) it conducts that activity in line with, and subject to, the requirements of the constitution of the British parent organisation.

Record keeping etc.

7B. (1) An international organisation must make, keep and retain records in respect of the following matters -

- (a) the names and principal residential addresses of its board members,
- (b) minutes of any board meetings and any annual or extraordinary general meeting of the members of the international organisation, including papers relevant to such meetings,
- (c) any documents relevant to the obligations under Part III of this Schedule, if applicable,
- (d) where the international organisation is affiliated to another organisation, including a British parent organisation, documents that demonstrate or are otherwise relevant to that affiliation, and

- (e) any contracts, other than a contract that is not within this Law, that are entered into by or on behalf of the international organisation, including tenders or any other documents that are relevant to such contracts.

(2) Subject to subparagraph (3), a contract is not within this Schedule if it is a contract for the sale of goods or the provision of services by or to the international organisation, and the price paid for those goods or services does not exceed £5,000.

(3) Any contract between a registered organisation and -

- (a) an international partner, or
- (b) any other affiliated organisation,

is a contract within this Law.

(4) The records referred to in subparagraph (1) -

- (a) must be retained in a readily retrievable form for a period of not less than six years after the date of being made or, if later, after the expiry or completion of any relevant term of office, transaction, contract or affiliation, as the case may be, and

(b) subject to subparagraphs (5) and (6), must be made available to any member of the registered organisation upon request.

(5) Subject to subparagraph (6), details of the identity of, or other private information in respect of, particular donors or potential donors to an international organisation, or particular recipients or potential recipients of assistance from an international organisation, may be treated as confidential at the discretion of the board.

(6) Nothing in subparagraphs (4) and (5) prejudices any obligation or prohibition in respect of the provision of information that exists apart from this Law, whether imposed by statute, contract or otherwise.

Financial probity and transparency.

7C. (1) An international organisation must put in place measures to ensure its financial probity and the transparency of its dealings to its members or other interested parties as appropriate, which include -

(a) a requirement for all funds given to or received from the international organisation to pass, so far as is reasonably possible, through its bank account (and where this is not possible, for this fact and the reason why it was not possible to be recorded), other than funds which -

(i) do not exceed a total of £1,000 in any twelve-month period, and

- (ii) which comprise payments made or received wholly within the Bailiwick in respect of purchases or other payments that are ancillary or incidental to the purpose of the international organisation,

- (b) subject to subparagraph (6), measures to ensure that the involvement of at least two unconnected individuals is required for the release of funds,

- (c) measures to ensure that -
 - (i) as far as is reasonably possible, and subject to subparagraph (4), assets of the international organisation are kept separate from those of any third party (including a member of the international organisation itself), and

 - (ii) as far as is reasonably possible, and without prejudice to item (d), where a member of an international organisation provides funds to or for the benefit of the international organisation or its activities, details of that fact and any repayment to the member in question are clearly stated

in, and apparent from, the records of the international organisation,

- (d) the adoption of policies and procedures which follow accepted principles of accounting and control, which are compliant with the record keeping obligations under this Law or any other applicable legal obligations, and which include provision for the availability to the board of financial information, and
- (e) subject to subparagraphs (2), (3) and (6), and only if the Committee so directs, making its most recent annual financial statement publicly available.

(2) The obligation at subparagraph (1)(e) does not apply to an international organisation that does not solicit or accept donations, funds or contributions from the public.

(3) The obligation at subparagraph (1)(e) is subject to the provisions governing the disclosure of information at paragraph 7B(5) and (6).

(4) Subparagraph (1)(c)(i) does not preclude a member of an international organisation from paying cash received on behalf of the international organisation into the bank account of a third party (including for the avoidance of doubt the personal account of the member concerned), provided that -

- (a) this is done with the intention of protecting the financial interests of the international organisation,
- (b) a managing official of the international organisation who is unconnected to the member concerned has consented to this, and
- (c) the payment does not exceed £1,000.

(5) A direction under subparagraph (1)(e) may apply to a particular international organisation, or class of international organisation, and may be subject to such conditions as the Committee thinks fit.

(6) The obligation at subparagraph (1)(b) does not apply to payments in excess of an amount ("**the payment threshold**") that has previously been specified by an international organisation for this purpose, provided that -

- (a) in specifying the payment threshold, the international organisation has taken into account the risks of its payments being used for the criminal purposes applicable to it under paragraph 7D,
- (b) the international organisation considers the payment threshold to be a *de minimis* amount that is proportionate to the risks referred to in subparagraph (a), and

- (c) the Registrar -
 - (i) has been notified of the payment threshold, and
 - (ii) has not notified the international organisation that he or she objects to the payment threshold on the grounds that it is not a *de minimis* amount that is proportionate to the risks referred to in item (a).

PART III
GOVERNANCE OBLIGATIONS FOR INTERNATIONAL
ORGANISATIONS: RISK MITIGATION

General obligation to mitigate risks.

7D. (1) Subject to subparagraph (2), in this Part "**criminal purposes**" means the financing of terrorism, money laundering, fraud, bribery and corruption.

(2) Criminal purposes do not include the financing of terrorism in the case of an international organisation that only provides funds or other assets or forms of assistance to an organisation that is registered with the Charity Commission for England and Wales, the Scottish Charity Regulator, or the corresponding authorities in Jersey and the Isle of Man (in this Schedule, a "**British registered organisation**").

(3) An international organisation must put in place all necessary internal or other controls to ensure that neither it, nor its activities, can be used for criminal purposes.

(4) The controls referred to at subparagraph (3) include the measures at paragraphs 7E to 7H where applicable, and such other measures as are necessary to ensure that -

- (a) the funds or other assets of the international organisation are fully accounted for,
- (b) the funds or other assets of the international organisation are used in a manner consistent with its purpose, mission and objectives,
- (c) the international organisation fulfils all other obligations under its constitution or other governing document, if applicable, and
- (d) the international organisation discharges any legal obligations to which it is subject.

Identification measures.

7E. (1) Subject to subparagraph (2), an international organisation must take such steps as are reasonable in all the circumstances to establish, and document -

- (a) unless the Registrar otherwise directs in the case of a British international organisation, the

identity, credentials, bona fides and good standing of -

(i) any British international organisation to or from whom the international organisation provides or receives funds or other assets or forms of assistance, and

(ii) any international partner,

(b) the identity of any person other than a British international organisation or an international partner making a donation -

(i) from outside the Bailiwick of a significant amount, or

(ii) which the international organisation considers to be unusual, whether because of its origin, nature or otherwise, and

(c) the identity, credentials, bona fides and good standing of any person other than a British international organisation or an international partner to which the international organisation provides funds or other assets or forms of assistance if -

- (i) the person in question is outside the Bailiwick and the funds or other assets or forms of assistance provided are significant, or
- (ii) the provision of funds or other assets or forms of assistance is requested in a way which the international organisation considers to be unusual, whether because of the circumstances or nature of the request, or otherwise.

(2) The identification measures at subparagraph (1) -

- (a) do not apply to –
 - (i) Chief Pleas,
 - (ii) the States of Guernsey,
 - (iii) the States of Alderney,
 - (iv) any entity established by the parties at (i) to (iii) whose functions include receiving or providing funding for charitable purposes, or

- (v) any persons employed by the parties at (i) to (iv) when acting in the course of their employment, and
 - (b) in the case of a British international organisation, are met by confirming that it is registered on the register in question.
- (3) For the purposes of subparagraph (1) -
 - (a) donations, funds or other assets or forms of assistance are significant if they comprise -
 - (i) monetary payments that exceed £15,000 in any given year (whether they are made in the form of a single transaction or in a series of transactions), or
 - (ii) items donated as a single transaction or as part of a series of transactions in any given year that are tradable on an open market and it is readily apparent that their value on that market at the time when the donation or distribution is made exceeds £15,000, or would exceed £15,000 if assessed collectively with other items donated in the same year,

(b) where a party to whom the measures at subparagraph (1) apply is an entity other than an entity within subparagraph (4), an international organisation should take such steps as are reasonable in all the circumstances to apply the measures at subparagraph (1) to the individuals who own or control the entity, and

(c) the establishment of the credentials and good standing of a person includes consideration, as far as reasonably possible, of whether there is reason to believe that the person, or, in the case of an entity, any individual who owns or controls the entity, would intentionally or inadvertently apply any funds or assets or other form of assistance received for criminal purposes, or enable another person to do so.

(4) An entity is within this paragraph if it is -

(a) a Guernsey legal person,

(b) an Alderney company,

(c) licensed by, or registered with, the Guernsey Financial Services Commission,

(d) administered by a corporate services provider,
or

(e) a company listed on a recognised stock exchange within the meaning of the Beneficial Ownership (Definition) Regulations, 2017, or a majority subsidiary of such a company.

(5) The identification measures at subparagraph (1) should be taken before accepting a donation or providing funds or other assets or forms of assistance, as the case may be (or, where it is not reasonably practicable to do so, as soon as possible thereafter).

(6) Where an international organisation is unable to carry out the identification measures required by this paragraph, or as a result of carrying out those measures has concerns about the risks of it, or its activities, being used for criminal purposes, it should put in place such measures as are reasonable in all the circumstances to mitigate those risks, whether by refusing to accept a donation, deciding not to provide the funds or other assets or forms of assistance, or otherwise.

(7) An international organisation must record in a register

-

(a) the names and locations of any persons in respect of whom it takes identification measures under subparagraph (1),

- (b) the amount of any donation received from, or funds or other assets or form of assistance, as the case may be, provided to that person, and
- (c) if applicable, a summary of -
 - (i) the information verifying the credentials, bona fides and good standing of that person, and
 - (ii) any measures taken to mitigate the risks associated with receiving a donation from, or providing funds or other assets or form of assistance, as the case may be, to that person.

(8) For the purposes of subparagraph (4), a "**Guernsey legal person**" means -

- (a) a company incorporated under the Companies (Guernsey) Law, 2008,
- (b) a foundation incorporated under the Foundations (Guernsey) Law, 2012,
- (c) a limited liability partnership incorporated under the Limited Liability Partnerships (Guernsey) Law, 2013, and

- (d) a limited partnership with legal personality incorporated under the Limited Liability Partnerships (Guernsey) Law, 1995.

Anti-financial crime policy.

7F. (1) An international organisation that carries out international activity and is not a local branch must have a written policy (an "**anti-financial crime policy**") that addresses the risks to the international organisation of it, or its activities, being used for criminal purposes.

(2) For the avoidance of doubt, addressing the risks referred to in subparagraph (1) includes addressing such risks in dealing with an international partner.

(3) An international organisation that is obliged to have an anti-financial crime policy by virtue of subparagraph (1) must provide a copy to the Registrar when applying for registration.

International partners.

7G. (1) Subject to subparagraph (4), for the purposes of this Schedule an "**international partner**" is an affiliated organisation or any other entity or individual with which an international organisation has arrangements in place for the purposes of providing funds or other assets or other forms of assistance outside the Bailiwick.

(2) An international organisation must put in place such procedures and controls in respect of its dealings with any international partner as are reasonable in all the circumstances for the purposes of preventing the international organisation or its activities from being used for criminal purposes as a result of those dealings.

(3) For the avoidance of doubt, the measures referred to in subparagraph (2) may include a decision not to have any, or any further, dealings with an international partner.

(4) An international partner does not include a British international organisation.

Reviews etc.

7H. An international organisation must -

- (a) review annually its compliance with -
 - (i) the obligations applicable to it under this Law ("**legal obligations**"), and
 - (ii) its anti-financial crime policy, if applicable,
- (b) where it identifies any failure of compliance with legal obligations or with its anti-financial crime policy if applicable (whether as a result of a review carried out under this regulation or otherwise), put in place any necessary mitigating measures,
- (c) review periodically, and update as necessary, its constitution or other governance document

and its anti-financial crime policy if applicable,
and

- (d) record the findings of the reviews referred to in this regulation and any actions taken as a result in the records of the international organisation.

Failure to comply with duties.

7I. (1) Where an international organisation fails, without reasonable excuse, to comply with any of the duties applicable to it under Part II or this Part -

- (a) the international organisation is -
 - (i) guilty of an offence, and
 - (ii) liable to a civil penalty, and
- (b) any person who owns, directs or controls the activities of the international organisation including (without limitation) any of its directors, officers or trustees, is liable to a civil penalty.

(2) Subject to section 7A, an international organisation guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 4 on the uniform scale."

- (8) At the start of paragraph 8(4), insert "Subject to section 7A," and

after paragraph 8 insert -

"Reporting of payments.

8A. (1) Subject to subparagraph (2), an international organisation must inform the Registrar as soon as reasonably possible of any payments it makes to any party outside the Bailiwick of Guernsey that meet or exceed £100,000.

(2) Subparagraph (1) does not apply to payments that -

(a) are made by a British parent organisation, or

(b) comprise a distribution within paragraph 2(5) (a) to (d).

(3) Information required to be provided to the Registrar under this paragraph shall be of such nature and in such form as may be specified by the Registrar."

(9) After paragraph 9 insert -

"PART IV

INFORMATION POWERS IN RESPECT OF INTERNATIONAL
ORGANISATIONS, ENFORCEMENT AND GENERAL

Power of Registrar to request and obtain information.

9A. (1) The Registrar may, by notice in writing served on any person, require that person to provide the Registrar in such form and manner, at such times or intervals, at such place and in respect of such periods as may

be specified in the notice, with such information as may reasonably be required by the Registrar for the performance of the Registrar's functions in respect of international organisations.

(2) The Registrar may, by notice in writing served on any person -

(a) require that person to produce, in such form and manner, within such time and at such place as may be specified in the notice, such information of such description as may be so specified, for the purposes of the Registrar inspecting them,

(b) require that person to furnish, to any of the Registrar's officers, servants or agents authorised for the purposes of this paragraph, on production of evidence of such authority, such information or information of such description as may be specified in the notice or as the officer, servant or agent may otherwise specify, either forthwith or within such time, and at such place, and in such form and manner, as may be so specified, for the purposes of their inspecting them,

being information reasonably required by the Registrar for the performance of the Registrar's functions in respect of international organisations.

(3) Where under subparagraph (2) the Registrar or any officer, servant or agent thereof has power to require the production of any information from a person, the Registrar or that officer, servant or agent has the like power to require the production of that information from any person who appears to be in possession of it.

(4) The powers conferred by this paragraph to require a person to produce any information comprised in documents include the power -

- (a) if the documents are produced, to take copies of them or extracts from them, in circumstances where the Registrar is satisfied that the taking of such copies or extracts is necessary for the proper exercise by the Registrar of the functions of the Registrar under this Law, and
- (b) if the documents are not produced, to require the person who was required to produce them to state, to the best of that person's knowledge and belief, where they are.

(5) The powers conferred by this paragraph to require a person to provide any information include power to require that person to attend at such time and place as may be required and to give an explanation of and to answer questions relating to any matters in relation to which the production of the information may be required.

(6) A requirement imposed under this paragraph, paragraph 9B or paragraph 9F, or under a warrant granted under paragraph

9G, has effect notwithstanding any obligation as to confidentiality or other restriction upon the disclosure of information imposed by statute, contract or otherwise; and, accordingly, the obligation or restriction is not contravened by the making of a disclosure, or by any other act or omission, pursuant to such a requirement.

Site visits with notice and with agreement.

9B. (1) The Registrar may, at such times, intervals and places as the Registrar deems fit, and -

- (a) with a view to the performance of the Registrar's statutory functions, or
- (b) if it is considered desirable to do so by the Registrar for the protection of the interests of the public or any class thereof, or any particular persons, or the reputation of the Bailiwick as a finance centre,

make arrangements with any international organisation for the making, in such manner and for such purposes as may be mutually agreed, of site visits to the offices of the international organisation or any associated party thereof (or any person acting for or on behalf of the international organisation or associated party) for the purpose of ascertaining whether or not the entity or associated party is complying with the provisions of this Law or any Ordinance, regulation, guidance, condition or direction made under it.

(2) Site visits may take place at any or all of the premises where the activities of the international organisation are conducted or records

are maintained by the international organisation or associated party and are not limited to premises in Sark.

(3) Where an international organisation or associated party fails to co-operate with the Registrar when exercising or attempting to exercise functions for the purposes of this paragraph (whether by declining to reach agreement as to the making, timing or scope of a site visit, or by failing to provide any information or document or to answer any question, or otherwise), that failure may be taken into account by the Registrar in deciding whether and in what manner to exercise statutory functions arising otherwise than under this paragraph.

Site visits with notice and without agreement.

9C. The Registrar may on request, and with 48 hours' notice given before 4 p.m. on a business day, enter any premises in Sark owned, leased or otherwise controlled or occupied by an international organisation.

Site visits without notice and where suspicion of documents being removed etc.

9D. If the Registrar has grounds to suspect that a site visit made under paragraphs 9B or 9C would result in any documents being removed, tampered with, falsified or destroyed, the Registrar may enter any premises in Sark owned, leased or otherwise controlled or occupied by an international organisation on request but without notice.

Use of the right of entry in paragraphs 9C and 9D.

9E. Except in cases of urgency the right of entry conferred by paragraphs 9C and 9D may only be exercised between 9.00a.m. and 4.00p.m. on a business day.

Request for information during site visits.

9F. If the Registrar exercises the right of entry under paragraphs 9B, 9C or 9D, the Registrar may require the officers, servants or agents of the relevant international organisation -

- (a) to produce for examination (whether at the premises of the international organisation or at the offices of the Registrar) any documents held by them,
- (b) to produce copies of any documents in a legible form for the Registrar to take away,
- (c) to answer questions for the purpose of verifying compliance with this Law.

Power of Bailiff to grant a warrant.

9G. (1) If the Bailiff is satisfied by information on oath that there are reasonable grounds for suspecting -

- (a) that a request or requirement under paragraphs 9A or 9F has not been complied with,
- (b) that any information or document furnished pursuant to such a request or requirement is false, misleading, inaccurate or incomplete,

(c) that if such a request or requirement were made -

(i) it would not be complied with,

(ii) any documents to which it would relate would be removed, tampered with, falsified or destroyed, or

(iii) the making of the request or requirement or any attempt to enforce it might significantly prejudice any inquiry to which the request or requirement would relate,

the Bailiff may grant a warrant.

(2) A warrant under this paragraph authorises any police officer, together with any other person named or described in the warrant (including, without limitation, the Registrar or any person authorised by the Registrar under paragraph 9J) -

(a) to enter any premises specified in the warrant using such force as may be reasonably necessary,

(b) to search the premises and, in relation to any documents or other information appearing to be relevant for the purpose of establishing

whether an international organisation or associated party thereof has complied with any of the provisions of or under this Law, to take possession of them or to take any other steps which may appear to be necessary for preserving them or preventing interference with them,

- (c) to take copies of or extracts from any such documents or other information,
- (d) to require any person named in, or of a class or description specified in, the warrant -
 - (i) to answer any questions relevant to establishing whether an international organisation or associated party thereof has complied with any of the provisions of or under this Law,
 - (ii) to state to the best of that person's knowledge and belief the whereabouts of any documents or other information described in item (b),
 - (iii) to make an explanation of any such documents or other information.

(3) A warrant under this paragraph ceases to be valid on the expiration of 28 days immediately following the day on which it was issued.

(4) Any documents or other information of which possession is taken under the powers conferred by a warrant under this paragraph may be retained -

- (a) for a period of four months or such longer period as the Bailiff may, when issuing the warrant or at any time thereafter, direct, or
- (b) if within that period proceedings to which the documents or other information are relevant are commenced against any person, until the conclusion of those proceedings.

Use of statements.

9H. A statement made by a person ("P") under paragraph 9A(5), 9F(c) or 9G(2)(d) -

- (a) may be used in evidence against P in proceedings other than criminal proceedings, and
- (b) may not be used in evidence against P in criminal proceedings except -

- (i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or
- (ii) in proceedings for -
 - (A) an offence under section 6,
 - (B) some other offence where, in giving evidence, P makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,
 - (C) perjury, or
 - (D) perverting the course of justice.

Lien.

9I. Where a person claims a lien on a document, its production pursuant to a requirement or request under this Schedule or by or under a warrant granted under paragraph 9G is without prejudice to that person's lien.

Exercise of the Registrar's powers.

9J. The Registrar's powers under this Schedule may also be exercised by any person who has been authorised by the Registrar to do so."

(10) In paragraph 10, after subparagraph (1) insert -

"(1A) In addition, the Registrar may strike off a registered organisation which is an international organisation if -

- (a) the registered organisation fails to comply with any request for information from the Registrar, or any other duty imposed under this Law,
- (b) a person is found guilty of an offence in respect of statements made or information produced or furnished by or on behalf of the registered organisation,
- (c) the registered organisation fails to pay any fee imposed under this Law,
- (d) any person who owns, directs or controls the activities of the registered organisation, including (without limitation) a director, officer or trustee, has been convicted of a criminal offence, whether in the Bailiwick or elsewhere,
- (e) it would otherwise be in the public interest to do so.

(1B) Subparagraph (1)(a) does not apply to convictions that are spent within the meaning of the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002."

(11) At the start of paragraph 11, insert "Subject to section 7A,".

(12) For the table in paragraph 12A(2), substitute -

"

Event, circumstance or matter	Penalty
Failure to register in accordance with paragraph 2	£2,000
Failure to renew registration in accordance with paragraph 5 -	
(i) First calendar month or part thereof,	£250
(ii) Second calendar month or part thereof,	£250
(iii) Each subsequent calendar month or part thereof.	£250
Failure to file annual financial statements in accordance with paragraph 8 -	
(i) First calendar month or part thereof,	£250
(ii) Second calendar month or part thereof,	£250
(iii) Each subsequent calendar month or part thereof.	£250
Failure to respond to request for information made under paragraph 9 -	
(i) First calendar month or part thereof,	£250
(ii) Second calendar month or part thereof,	£250
(iii) Each subsequent calendar month or part thereof.	£250

".

(13) After paragraph 12A, insert -

"Civil penalties.

12B. (1) Where the Registrar is satisfied that any international organisation or other person is liable to a civil penalty under this Law, the Registrar may impose on that organisation or person a financial penalty in respect of the conduct that gave rise to the liability to a civil penalty of such amount as considered appropriate and proportionate by the Registrar, but not exceeding £20,000.

(2) Any financial penalty imposed under this paragraph is payable to Chief Pleas and is recoverable as a civil debt.

Private reprimands.

12C. (1) Where the Registrar considers that, having regard to the conduct of a registered organisation or a person who owns, controls or directs the activities of a registered organisation, it is appropriate to do so, the Registrar may issue a private reprimand to the registered organisation.

(2) The Registrar may not publish a private reprimand without the consent of the registered organisation.

(3) A private reprimand issued under subparagraph (1) may be taken into account by the Registrar in considering any matter under this Law concerning the registered organisation.

Public statements.

12D. (1) Where in the opinion of the Registrar an international organisation or a person who owns, controls or directs the activities of an international organisation has contravened in a material particular -

- (a) a provision of this Law, or
- (b) any prohibition, restriction, condition, obligation, enforcement requirement, other requirement, duty, direction or arrangement imposed under this Law,

the Registrar may publish, in such manner and for such period as may be determined by the Registrar, a statement to that effect.

(2) The statement may contain such information in respect of any registered organisation or person named therein, and such ancillary, incidental and supplementary information, as the Registrar may determine.

(3) If at any time it appears to the Registrar that a statement published under this paragraph or any information contained in it is or has become misleading, inaccurate or incomplete, or that it is necessary or desirable in the interests of the public or the reputation of the Bailiwick as a finance centre to do so, the Registrar shall make such addition, erasure or other alteration to the statement or content thereof as the Registrar considers necessary.

(4) A statement published under subparagraph (1) may be taken into account by the Registrar in considering any matter under this Law concerning the registered organisation or other person in question.

Disqualification orders.

12E. (1) Where the Registrar considers that a person who owns, controls or directs the activities of an international organisation has contravened in a material particular -

- (a) a provision of this Law, or
- (b) any prohibition, restriction, condition, obligation, enforcement requirement, other requirement, duty, direction or arrangement imposed, issued or arising under any such provision,

the Registrar may make and subsequently renew, on one or more occasions, an order (a "**disqualification order**") disqualifying that person from owning, controlling or directing the activities of a registered organisation.

(2) A person who performs or agrees to perform any function in contravention of a disqualification order is guilty of an offence and liable to a civil penalty.

(3) A registered organisation and its officers shall take all reasonable care to ensure that none of its functions in relation to the carrying on of any business of the registered organisation is performed by a person who is disqualified from performing that function by a disqualification order.

(4) A disqualification order and any renewal thereof -

- (a) shall have effect for such period (which may be indefinite), and

- (b) may contain such ancillary, incidental and supplementary terms and conditions,

as shall be specified in it.

Imposition of applicable sanctions.

12F. In deciding whether or not to impose an applicable sanction (and, where relevant, the amount or terms thereof), the Registrar must take into consideration the following factors -

- (a) in the case of a contravention of or under any provisions of this Law -
 - (i) whether the contravention was brought to the attention of the Registrar by the registered organisation or other person concerned, as the case may be,
 - (ii) the seriousness of the contravention, and
 - (iii) the efforts, if any, that have been made to rectify the contravention and to prevent a recurrence,
- (b) the potential financial consequences to the registered organisation or other person

concerned, and to third parties including customers and creditors of that registered organisation or other person, of imposing an applicable sanction,

- (c) the action taken by the Registrar in relation to applicable sanctions in other cases, and
- (d) any other matter the Registrar considers relevant.

Notification.

12G. (1) Where the Registrar decides to impose an applicable sanction, he or she must issue to the registered organisation or other person, as the case may be, notice of that decision.

(2) A notice under this paragraph must include a statement of the right to appeal under paragraph 13.

Effect of applicable sanctions.

12H. (1) Subject to subparagraphs (2) and (3), a decision of the Registrar to impose an applicable sanction does not have effect until -

- (a) 28 days immediately following the date of the notice of the decision issued under paragraph 12G, or

- (b) if an appeal to the Court is instituted within that period under paragraph 13, the final determination, or withdrawal, of that appeal,

and for the purposes of this subparagraph, an appeal shall be deemed not to have been finally determined until the expiration of the time allowed for the institution of an appeal to the Court of Appeal under the Court of Appeal (Guernsey) Law, 1961 or until the determination of any such appeal instituted within that time.

(2) Subparagraph (1) does not apply to a decision to impose a private reprimand.

(3) Where the Registrar is of the view that it is necessary or desirable to do so -

- (a) in the interests of the public, or
- (b) in the interests of the reputation of the Bailiwick as a financial centre,

the Registrar may apply to the Court for an order under this subparagraph directing that the Registrar's decision to impose an applicable sanction should, without prejudice to any appeal in respect of the decision under paragraph 13, have immediate effect; and the Court may make an order under this subparagraph subject to such terms and conditions as it thinks just.

(4) An application by the Registrar for an order under subparagraph (2) may, with the approval of the Court, and subject to such terms and conditions as the Court may direct, be made ex parte.

(5) In this paragraph, "**the Court**" means the Court of the Seneschal.

Publication of applicable sanctions.

12I. (1) Subject to paragraph 12C(2) and subparagraph (2), where an applicable sanction has effect under paragraph 12H, the Registrar may publish, in such manner and for such period as the Registrar may determine -

- (a) the name of the registered organisation or other person concerned as the case may be,
- (b) the nature of the applicable sanction imposed and, where relevant, the amount or terms thereof,
- (c) such information in respect of -
 - (i) any registered organisation or other person named therein, and
 - (ii) such ancillary, incidental and supplementary information, as the Registrar may determine.

(2) Where the Registrar makes a decision to strike off a registered organisation under paragraph 10, the Registrar may publish that decision in such a manner and for such period as the Registrar may determine, notwithstanding that the decision may not have effect when the notice is published.

Relationship of civil penalties with prosecutions etc.

12J. (1) A person is not liable to a civil penalty if a prosecution in respect of the matter has been commenced.

(2) If the prosecution commences after the civil penalty has been paid, the Registrar shall repay the civil penalty to the person who has paid it.

(3) Subject to subparagraph (1), the application of one power, sanction or remedy provided for by or under this Law is without prejudice to the application of any other such power, sanction or remedy.

Interpretation of Part V.

12K. In this Part, "**applicable sanction**" means -

- (a) in the case of a registered organisation, the striking off of that registered organisation under paragraph 10,
- (b) an administrative penalty under paragraph 12A,
- (c) a civil penalty under paragraph 12B,

- (d) a private reprimand under paragraph 12C,
- (e) a public statement under paragraph 12D, or
- (f) in the case of a person who owns, directs or controls the activities of a relevant entity, a disqualification order under paragraph 12E."

(14) For the first sentence of paragraph 13(1), substitute "An organisation may appeal to the Court against any decision of the Registrar made under this Law by a summons served on the Registrar."

(15) After paragraph 13, insert -

"Guidance etc.

13A. (1) The Registrar may issue such guidance, or revisions to the same, as he or she thinks necessary for the purposes of this Law and other enactments making provision in respect of relevant entities.

(2) The Registrar may issue standard forms as a means of specifying in writing the form and manner in which an applicant must make an application or a person is required to file an annual statement, report a payment or provide information to the Registrar under this Law.

Power of Policy & Finance Committee to make exempting regulations.

13B. The Policy & Finance Committee may by regulations exempt any particular international organisation or class of international organisation from any of the provisions applicable to international organisations under this Schedule. .".

Other supplemental amendments to the Law in respect of criminal penalties.

2. At the start of sections 1(4) and section 7, insert "Subject to section 7A,"
and after section 7, insert -

"Penalties: offences committed by international organisations.

7A. (1) A person falling within subsection (2) that is guilty of any offence under this Law (including, for the avoidance of doubt, an offence under the Schedule) is liable -

(a) on summary conviction, to a fine not exceeding level 5 on the uniform scale, to imprisonment for a term not exceeding six months, or to both, and

(b) on conviction on indictment, to a fine, to imprisonment for a term not exceeding two years, or to both.

(2) A person falls within subsection (1) if the person -

(a) is an international organisation within the meaning of the Schedule, or

(b) owns, directs or controls the activities of an international organisation, including (without limitation) any of its directors, officers or trustees."

Citation.

3. This Ordinance may be cited as the Charities and Non Profit

Organisations (Registration) (Sark) (Amendment) Ordinance, 2024.

Commencement.

4. (1) Subject to subsection (2), this Ordinance shall come into force on 26th April, 2024.

(2) Section 1(5), to the extent that it inserts paragraph 4A(6) into the Schedule to the Law, shall come into force on 1st July 2024.