

ORDINANCE OF THE CHIEF PLEAS OF SARK

Ordinance No. I of 2025

**The Capacity (Commencement and Miscellaneous  
Provisions) (Sark) Ordinance, 2025**

ARRANGEMENT OF SECTIONS

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SCHEDULE: Amendments

# **The Capacity (Commencement and Miscellaneous Provisions) (Sark) Ordinance, 2025**

**THE CHIEF PLEAS OF SARK**, in exercise of the powers conferred on them by sections 78(2) and 85(1)(b) of the Capacity (Bailiwick of Guernsey) Law, 2020<sup>a</sup>, and all other powers enabling them in that behalf, hereby order:-

## **Commencement of the Law.**

1. (1) The following provisions of the Law shall come into force on 3<sup>rd</sup> July 2025 -

- (a) only to the extent relevant for the bringing into force, and operation, of the provisions set out in paragraphs (b) to (e) -
  - (i) Parts 1 and 2, and
  - (ii) Part 3 (except sections 17 to 20),
- (b) Parts 5 and 6,
- (c) section 71A and 72,
- (d) section 75 (except subsection (1)(b)(i)), and

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<sup>a</sup> Order in Council No. II of 2021; this enactment has been amended.

(e) for all purposes, section 77.

(2) For the avoidance of doubt, the amendments effected by Part II of the Schedule to the Capacity (Commencement and Miscellaneous Provisions) (Guernsey and Alderney) Ordinance, 2025 shall have effect for the purposes of Sark on commencement of this Ordinance.

**Amendments.**

2. The amendments set out in the Schedule to this Ordinance shall have effect.

**Appeals.**

3. For the avoidance of doubt -

- (a) section 14 of the Court of Appeal (Guernsey) Law, 1961<sup>b</sup> shall have effect in relation to any judgment or order of the Royal Court (including any declaration) made under the Law,
- (b) any such appeal may only be made with the leave of the Royal Court or the Court of Appeal,
- (c) an application for leave to appeal under subsection (1) shall be treated, for the purposes of section 21 of the Court of Appeal (Guernsey) Law, 1961, in respect of -

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<sup>b</sup> Ordres en Conseil Vol. XVIII, p. 315; this enactment has been amended.

(i) the powers that may be exercised by a single judge of the Court under section 21(1) of that Law, and

(ii) the entitlement of an applicant under section 21(2) of that Law,

as if it were an application made under Part II of that Law.

**Interpretation.**

4. In this Ordinance, "**the Law**" means the Capacity (Bailiwick of Guernsey) Law, 2020, and all other terms used in this Ordinance shall have the same meaning as set out in the Law, unless the contrary intention requires.

**Citation.**

5. This Ordinance may be cited as the Capacity (Commencement and Miscellaneous Provisions) (Sark) Ordinance, 2025.

**Commencement.**

6. This Ordinance shall come into force on the 3<sup>rd</sup> July, 2025.

## SCHEDULE

Section 2

### AMENDMENTS

**1.** In the Law -

(a) in section 37 -

(i) after subsection (5), insert the following subsection –

"(5A) For the avoidance of doubt, an advance decision made under Part 5 of the Law shall not have effect in relation to medical treatment (as defined by section 2 of the Mental Health (Bailiwick of Guernsey) Law, 2010) provided to a person in accordance with Part VIII of that Law, unless it is provided in accordance with Part II of the Mental Health (Miscellaneous Provisions) (Guernsey and Alderney) Ordinance, 2013." , and

(ii) re-number the subsection following the inserted subsection as subsection (6), and

(b) in section 72(1)(c), for "and", substitute "or".

**2.** For section 3(b) of the Mental Health (Miscellaneous Provisions) (Sark) Ordinance, 2013, substitute the following paragraph -

"(b) **"advance decision"** means either -

- (i) an advance decision made in accordance with section 8, or
- (ii) a valid and applicable advance decision to refuse treatment for the purposes of Part 5 of the Capacity (Bailiwick of Guernsey) Law, 2020, and".