

# PROJET DE LOI

ENTITLED

## **The Reform (Sark) (Amendment) Law, 2025**

**THE CHIEF PLEAS OF SARK**, in pursuance of their Resolutions of the 19<sup>th</sup> March, 2025 have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in the Island of Sark.

### **Code of conduct, etc.**

1. (1) The Reform (Sark) Law, 2008<sup>a</sup> ("**the Law**") is amended in accordance with the following subsections.

(2) After section 21, insert the following sections -

### **"Code of conduct.**

**21A.** (1) The Chief Pleas may by resolution adopt (and subsequently amend, revoke or replace) a code of conduct –

(a) prescribing or, as may be appropriate, regulating the duties, standards, propriety and conduct, in public life, of members, and

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<sup>a</sup> Order in Council No. V of 2008; this enactment has been amended.

(b) containing such other provision in relation to those matters as the Chief Pleas think fit.

(2) A code of conduct may, without limitation, make provision –

(a) for the investigation and disposal of allegations and complaints that a member –

(i) has failed to comply with the code, or

(ii) has been guilty of any breach or abuse of privilege,

(b) for the establishment of a panel or panels to investigate allegations and complaints falling within subparagraph (a)(ii), and the constitution, powers and proceedings of any such panel,

(c) requiring any member under investigation by a panel or the Sark Commissioner to co-operate fully with the panel or the Sark Commissioner (as the case may be),

(d) without prejudice to subparagraph (b), empowering the panel and the Sark Commissioner to request the production of documents from any person (including the

member under investigation) and to request any person to appear before the panel or the Sark Commissioner (as the case may be),

(e) for the sanctions to be available against an offending member, which may include –

(i) a reprimand or caution,

(ii) requiring the member to apologise, or

(iii) suspension or expulsion (for example, by debarring him or her from proceedings of, or terminating his or her membership of, the Chief Pleas or any committee (howsoever titled), or by removing any of his or her functions in relation to such proceedings).

(3) Subject to subsection (5), members must comply with a code of conduct in all aspects of their public life and are bound by any decision made under it; and the code and any such decision shall have effect for the purposes of –

(a) this Law,

(b) the Chief Pleas of Sark Rules of Procedure (which includes any similar document, however titled),

- (c) the Constitution and Operation of Chief Pleas Committees (which includes any similar document, however titled), and
- (d) any enactment relating to the organisation and functioning of the Chief Pleas,

the provisions of which shall apply accordingly.

(4) For the purposes of this section and Schedule 3, **"member"** –

- (a) means a member of the Chief Pleas as set out in section 21 of this Law, and
- (b) includes -
  - (i) a person who has at any time on or after the relevant date been a member of Chief Pleas, and
  - (ii) for the avoidance of doubt, the Deputy Speaker and the Deputy Seigneur.

(5) The Seigneur and the Deputy Seigneur are only required to comply with a code of conduct in relation to the exercise of functions carried out under this Law.

(6) For the purposes of this section, "**relevant date**" has the same meaning as in Schedule 3.

**Commissioner for Standards.**

**21B.** Schedule 3 shall have effect."

(3) In section 65, after the definition of "**Chief Pleas**" insert the following definition –

""**Sark Commissioner**" has the meaning given in paragraph 1 of Schedule 3 to this Law,".

(4) After Schedule 2, insert the schedule set out in the Schedule to this Law.

(5) An investigation into an allegation or complaint falling within section 21A(2)(a)(i) of the Law that, immediately before commencement, has been started (but not concluded) by a panel established by the Chief Pleas, may, on commencement, be continued and concluded by the Sark Commissioner (within the meaning of the Law) at the Sark Commissioner's discretion in accordance with the provisions of Schedule 3 to the Law in the same way as if the investigation had been started by the Sark Commissioner, and in those circumstances that schedule shall be construed accordingly.

(6) The Sark Policy and Finance Committee may by regulations make such further transitional provision in respect of any investigation falling within subsection (5) as the Committee considers necessary or expedient for the purpose of ensuring that it can be continued and concluded by the Sark Commissioner fairly and efficaciously.

**Replacement of the Trustees.**

2. (1) The Law is further amended in accordance with the following subsections.

(2) In section 22(5) delete ", except that" to the end of the subsection.

(3) In section 22B(1), delete ", except that" to the end of the subsection.

(4) In section 49(3) and (4), delete "; provided that" to the end of the subsection in each case.

(5) Section 56 is repealed.

(6) In section 57 -

(a) in subsection (1) -

(i) for "Trustees", substitute "Douzaine",

(ii) for "have", substitute "has", and

(iii) in paragraph (c), for "them" substitute "it", and

(b) in subsection (2) -

(i) for "Trustees", substitute "Douzaine", and

(ii) for "their" substitute "its" wherever it appears.

(7) In section 58, for " Trustees" –

(a) substitute "the Sark Policy and Finance Committee" on the first occasion it appears, and

(b) substitute "that Committee" on the second occasion it appears.

(8) Anything which, immediately before the coming into force of this section, was in the process of being done by or in relation to the Trustees may, be continued by or in relation to the Douzaine or the Sark Policy and Finance Committee (as the case may be).

(9) Anything done (or having effect as if done) by or in relation to the Trustees has effect, so far as is necessary for its continuing effect after commencement, as if done by or in relation to the Douzaine or the Sark Policy and Finance Committee (as the case may be).

(10) This section does not affect the validity of anything done (or having effect as if done) by or in relation to the Trustees before the commencement of this section.

(11) Where any function may be performed by the Trustees as established under the Law, whether under an enactment or otherwise, that function may be performed by any person determined for that purpose by resolution of the Chief Pleas.

**Citation.**

3. This Law may be cited as the Reform (Sark) (Amendment) Law, 2025.

**Commencement.**

4. This Law shall come into force on a date to be appointed by regulations of the Sark Policy and Finance Committee, and different dates may be appointed for different provisions of the Law and for different purposes.

## SCHEDULE

Section 1

## "SCHEDULE 3

Section 21B

### SARK COMMISSIONER FOR STANDARDS

#### **Office of Sark Commissioner.**

1. (1) There is established an office of Sark Commissioner of Standards.

(2) A person who holds the office of Sark Commissioner of Standards is referred to in this Law as the "**Sark Commissioner**".

(3) For the avoidance of doubt, the Sark Commissioner is not "the holder of a public office in the Bailiwick" for the purposes of the First Schedule to the Reform (Guernsey) Law, 1948.

#### **Appointment of Sark Commissioner.**

2. (1) The Sark Commissioner shall be appointed by the Chief Pleas on the nomination of the Committee.

(2) The Sark Commissioner shall be appointed on such terms and conditions as may from time to time be agreed between the Committee and the Sark Commissioner, provided that none of those terms and conditions is inconsistent with any provision of this Schedule.

(3) Without prejudice to subparagraph (2), and subject to the provisions of this paragraph and paragraph 3 (vacancy in office), the Sark Commissioner shall hold office for such term not exceeding five years as may be agreed between the Committee and the Sark Commissioner at the time of appointment.

(4) On being appointed the Sark Commissioner shall cease to –

- (a) hold any employment as an employee of the Chief Pleas, and
- (b) be the holder of any public office in the Bailiwick.

(5) If the Sark Commissioner ceases to hold office by reason of the expiration of the agreed term, he or she shall be eligible for reappointment.

(6) For the purposes of this paragraph, "**holder of any public office in the Bailiwick**" does not include any person who holds an office with equivalent functions as the Sark Commissioner for the purposes of any other jurisdiction in the Bailiwick.

**Vacancy in office.**

3. (1) The office of Sark Commissioner becomes vacant if –

- (a) the term of appointment of the person holding the office expires,
- (b) the Chief Pleas resolve to revoke the appointment, or

- (c) the person holding the office –
- (i) dies,
  - (ii) gives the Committee written notice of resignation from the appointment,
  - (iii) stands for election to the office of Conseiller or Speaker,
  - (iv) becomes an employee of the Chief Pleas, or the holder of a public office in the Bailiwick,
  - (v) is compulsorily detained under the Mental Health (Bailiwick of Guernsey) Law, 2010,
  - (vi) becomes bankrupt,
  - (vii) whether in the Bailiwick or elsewhere, is convicted of an offence involving corruption, or
  - (viii) whether in the Bailiwick or elsewhere, is ordered to be imprisoned following conviction for any offence.

(2) Subject to subparagraph (3), the Committee may appoint a person to carry out the duties of the office of the Sark Commissioner while –

- (a) the office is vacant, or
- (b) the holder of the office is unable to perform the functions of the office.

(3) The Committee must report an appointment under subparagraph (2) to the Chief Pleas as soon as reasonably practicable.

**Resources.**

4. The Chief Pleas must ensure that the Sark Commissioner is provided with such administrative and other support as the Sark Commissioner may reasonably require for the purpose of discharging the functions of the Sark Commissioner under this Law.

PART 2 - POWERS AND DUTIES

**Appointment of Deputy Sark Commissioner.**

5. (1) The Sark Commissioner, following consultation with the Committee, may, subject to such terms and conditions as the Sark Commissioner thinks fit following that consultation, appoint any person as Deputy Sark Commissioner with authority to exercise the Sark Commissioner's functions –

- (a) during any period during which the Sark Commissioner is unavailable, and
- (b) in respect of any matter in relation to which the Sark Commissioner considers that he or she is unable to act, because of a conflict of interest or for any other reason.

(2) A function exercised by a Deputy Sark Commissioner pursuant to an appointment under this paragraph is for all purposes exercised by the Sark Commissioner; and every decision taken or other thing done by a Deputy Sark Commissioner pursuant to such an appointment has the same effect as if taken or done by the Sark Commissioner.

(3) An appointment under this paragraph of a Deputy Sark Commissioner –

(a) may be varied or terminated at any time by the Sark Commissioner following consultation with the Committee, but without prejudice to anything done pursuant to the appointment or to the making of a new appointment,

(b) does not prevent the exercise of the function by the Sark Commissioner while the appointment subsists.

**Commissioner's functions relating to investigations, complaints and other matters.**

6. (1) The functions of the Sark Commissioner are –

(a) to investigate a complaint to the Sark Commissioner that a breach of the code of conduct has occurred,

(b) to initiate an investigation if the Sark Commissioner believes that a breach of the code of conduct may have occurred,

- (c) to report to the Committee on the outcome of any investigation referred to in item (a) or (b),
  - (d) on the Sark Commissioner's own initiative or, if requested by the Committee, to give advice on any matter relating to standards of conduct of members of Chief Pleas, including proposals to change the code of conduct, and
  - (e) all such other functions as may be assigned to the office of the Sark Commissioner by Resolution of the Chief Pleas, or under any other enactment.
- (2) The Sark Commissioner shall not investigate a complaint which

—

- (a) is made anonymously,
- (b) in the Sark Commissioner's opinion, is frivolous, vexatious or unsubstantiated,
- (c) is from a person who is not a member of the Chief Pleas regarding words spoken by, or actions of, a member during a meeting of the Chief Pleas, or
- (d) relates to an act or omission which took place before the relevant date.

(3) On receipt of a complaint described in subsection (1)(a), the Sark Commissioner must decide whether there are grounds to investigate and shall either –

- (a) notify the complainant that no such grounds exist (including, but not limited to, because the complaint falls into subparagraph (2)), or
- (b) undertake an investigation, save that (for the avoidance of doubt) the Sark Commissioner is not required to notify the complainant under item (a) where the complaint has been made anonymously.

(4) The Sark Commissioner shall determine the procedure and timing of any investigation.

(5) In making a report to the Committee under subsection (1)(c), the Sark Commissioner shall state his or her conclusions and recommend what action, if any, should be taken.

(6) The Sark Commissioner's conclusions and recommendations are not binding on the Committee.

(7) Notwithstanding subparagraph (1), the Sark Commissioner may perform any of the functions set out in that subparagraph in relation to a complaint against a Conseiller regarding an act or omission which is alleged to breach any of paragraphs 1.3 to 1.7 of the "Code of Conduct – Conseillers of Chief Pleas" where -

- (a) that act or omission is alleged to have taken place on or after the relevant date, but before the commencement of this paragraph, and
- (b) the complaint is made to the Sark Commissioner no later than 6 months after the date on which this paragraph is commenced,

and, for the avoidance of doubt, the provisions of this Schedule shall apply in relation to such a complaint as if it were a complaint made under a code of conduct adopted under section 21A of this Law.

(8) For the purposes of this paragraph, "**the relevant date**" means the date determined for that purpose by resolution of the Chief Pleas.

**Independence.**

7. (1) The Sark Commissioner must not be directed by any person on how any function of the office of the Sark Commissioner is to be carried out, including, in particular, whether or not to undertake an investigation referred to in paragraph 6(1)(a) or (b).

(2) The Sark Commissioner may seek legal advice from His Majesty's Procureur on any subject relevant to the functions of the office of the Sark Commissioner.

**Statement of manner in which functions are to be discharged.**

8. (1) The Sark Commissioner may make and publish a statement of the manner in which he or she proposes to discharge his or her functions under this Schedule and any other enactment.

(2) The Sark Commissioner shall keep under review and revise, as needed, any statement made and published under subparagraph (1).

(3) The Sark Commissioner must, at the same time that a statement or revision is made, provide a copy of the statement or revision, as the case may be, to the Committee.

(4) The Committee must, as soon as reasonably practicable, lay any statement made under this paragraph, and any revision of it, before the Chief Pleas.

**Duty to prepare annual report.**

9. (1) The Sark Commissioner shall, each year –

(a) make a report in respect of the activities of the office of the Sark Commissioner for the previous year, and

(b) at the same time as the report is made, provide a copy of it to the Committee.

(2) On receiving the report mentioned in subparagraph (1) the Committee shall, as soon as reasonably practicable, lay it before the Chief Pleas.

**Appeals.**

10. (1) Subject to the provisions of this paragraph, and only following consultation with the Committee, the Sark Commissioner shall establish a mechanism for the making of appeals against decisions of the Sark Commissioner by persons aggrieved by those decisions.

(2) The mechanism established under subparagraph (1) shall provide that the grounds of an appeal against a decision of the Sark Commissioner are that –

- (a) there was a material error in the relevant investigation by the Sark Commissioner that affected the decision,
- (b) the decision was unreasonable,
- (c) the process followed by the Sark Commissioner in reaching the decision was flawed,
- (d) credible new evidence has become available which, if accepted, would have a real prospect of affecting the decision,
- (e) in the case of a decision to impose a sanction, the sanction imposed was disproportionate, or
- (f) there is another compelling reason to allow an appeal to be made.

(3) When establishing a mechanism for the making of appeals under subparagraph (1) –

- (a) (for the avoidance of doubt) the Sark Commissioner may make provision in respect of any related procedural matters in such manner as the Sark

Commissioner thinks fit, including (but not limited to)

–

- (i) prescribing forms, and
  - (ii) specifying time limits within which appeals have to be made, and
- (b) the Sark Commissioner shall take into account the importance of ensuring that the mechanism provides for appeals to be determined in a way that is fair and timely.

(4) The Sark Commissioner shall arrange for a description of the appeal mechanism established under subparagraph (1) to be included in the statement to be made and published under paragraph 8, and for any prescribed forms or other materials relating to appeals to be appended thereto.

### PART 3 – ENFORCEMENT AND OFFENCES

#### **Power to require people to appear, answer questions and provide documents.**

11. (1) Subject to subparagraph (2), the Sark Commissioner may, in the exercise of his or her functions, do all or any of the following –

- (a) require a person to appear before the Sark Commissioner to give evidence or to produce a specified document, or to do both,
- (b) require a person to answer questions,

(c) require a person who has access to a document to provide the information contained in it to the Sark Commissioner in a legible and comprehensible form.

(2) For the avoidance of doubt, a person may at any time refuse to answer a question from, or produce a document to, the Sark Commissioner on the ground of a privilege conferred by section 33.

(3) The power under subparagraph (1)(a) to require a document to be produced includes a power –

(a) if the document is produced, to retain the document or to take copies of it or extracts from the information it contains, and

(b) if the document is not produced, to require the person to whom the requirement was directed to state, to the best of his or her knowledge and belief, where it is.

(4) If documents are retained, a list of the documents must be supplied to the person from whom they were obtained.

(5) A document retained under subparagraph (3)(a) –

(a) may be retained for one year, but

(b) if within that year proceedings to which the document is relevant are commenced against any person, may be retained until the conclusion of those proceedings.

- (6) If –
- (a) the Sark Commissioner has retained a document under subparagraph (3)(a), and
  - (b) a person reasonably requires the document for his or her business,

the Sark Commissioner must provide the person with a copy of it as soon as reasonably practicable.

(7) In this Part, "**document**" has the meaning given in Part II of the Schedule to the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016.

### *Offences*

#### **Disobedience to requirement of Sark Commissioner.**

12. (1) A person who, without reasonable excuse –
- (a) disobeys a requirement to produce documents to the Sark Commissioner, to answer questions or to appear before the Sark Commissioner to give evidence, or
  - (b) having so appeared, refuses to comply with a requirement to answer a question put by the Sark Commissioner,

is guilty of an offence.

(2) A person guilty of an offence under subparagraph (1) shall be liable to a fine not exceeding level 5 on the Sark uniform scale.

**Interference with witnesses.**

13. (1) A person is guilty of an offence if he or she, by fraud, intimidation, force or threat, by the offer or promise of any inducement or benefit, or by other improper means –

- (a) induces or attempts to induce another person who has been required to answer questions from, appear before or produce documents to the Sark Commissioner, to refrain from doing as requested or formally required, or
- (b) influences or attempts to influence another person in respect of any information given or documents produced in response to such a request.

(2) A person guilty of an offence under subparagraph (1) shall be liable to imprisonment for a term not exceeding two years, or to a fine, or to both.

**False or misleading information.**

14. (1) If a person to whom subparagraph (2) applies –

- (a) makes a statement which he or she knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,

- (b) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
  - (c) produces or furnishes, or causes or permits to be produced or furnished, any information or document which he or she knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
  - (d) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular, he or she is guilty of an offence.
- (2) This subparagraph applies to a person ("P") who –
- (a) makes any statement or provides any information or document to the Sark Commissioner, or to any officer, servant or agent of the Sark Commissioner, when the Sark Commissioner or that person is acting in the exercise of his or her functions, or
  - (b) otherwise than as mentioned in paragraph (a) makes any statement or provides any information or document to the Sark Commissioner in circumstances in which P knows or could reasonably be expected to know that the statement, information or document would or might be

used by the Sark Commissioner for the purpose of exercising his or her functions.

(3) A person guilty of an offence under subparagraph (1) shall be liable to imprisonment for a term not exceeding two years, or to a fine, or to both.

**Obstruction.**

15. (1) A person shall be guilty of an offence if he or she hinders or obstructs a person in the exercise by that person of a function under this Schedule.

(2) A person guilty of an offence under subparagraph (1) shall be liable to a fine of level 5 on the Sark uniform scale, to a period of imprisonment not exceeding three months, or to both.

**Destruction of documents.**

16. (1) A person shall be guilty of an offence if, when required to produce a document under this Schedule or knowing that a document may be required to be produced under this Schedule, the person, with intent to deceive, destroys the document or in any other way renders it unintelligible or useless, or difficult or impossible to retrieve.

(2) A person guilty of an offence under subparagraph (1) shall be liable to imprisonment for a term not exceeding two years, or to a fine, or to both.

PART 4 - FINAL

**Immunity of persons appearing, answering questions and providing documents.**

17. (1) Subject to subparagraphs (2) and (3) –

- (a) no civil proceedings or criminal proceedings may be instituted against any person in respect of any words spoken or written by that person –
  - (i) in a complaint to the Sark Commissioner that a breach of the code of conduct has occurred, or
  - (ii) in the course of answering questions from, or appearing and giving evidence before, the Sark Commissioner, and
- (b) an answer given by a person to a question put to that person, or an oral or written statement made by a person in the course of the person's appearance before the Sark Commissioner, shall not be admissible in evidence against the person in any other civil proceedings or criminal proceedings.

(2) Subparagraph (1) does not preclude the institution of criminal proceedings under paragraph 14 (false or misleading information).

(3) Subparagraph (1)(a) does not apply to a complaint that the Sark Commissioner does not investigate in accordance with paragraph 6(2).

(4) Where a person ("A") provides, in compliance with a request made under this Schedule, a document in respect of another person ("B"), the provision of that document shall not be regarded as a breach of any duty owed by A to B.

**Exclusion of liability.**

18. (1) No person undertaking a function under this Schedule (including, but not limited to, the Sark Commissioner) is to be liable in damages or personally liable in any civil proceedings in respect of anything done, or omitted to be done, after the coming into force of this Schedule in respect of that function, unless the thing was done or omitted to be done in bad faith.

(2) Subparagraph (1) does not prevent an award of damages in respect of an act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000.

**Interpretation.**

19. In this Schedule, unless the context requires otherwise –

"**bankrupt**", in relation to any person ("P"), means –

- (a) that P has been declared by the Royal Court to be insolvent or that a Commissioner or Committee of Creditors has been appointed by the Royal Court to supervise or secure P's estate,
- (b) that P's affairs have been declared in a state of *désastre* at a meeting held before a Commissioner of the Court of the Seneschal,
- (c) that a saisie administration order has been made against P in respect of any of his or her real property in the Bailiwick, or
- (d) that a composition or arrangement with creditors has been entered into in respect of P whereby P's creditors will receive

less than 100p in the pound or that possession or control has been taken of any of P's property or affairs by or on behalf of creditors,

"**the code of conduct**" means a code of conduct within the meaning of section 21A that is in force at the relevant time, and for these purposes "**the relevant time**" means –

- (a) for the purposes of paragraph 6(1)(a), the time of the alleged breach relating to the complaint,
- (b) for the purposes of paragraph 6(1)(b), the time of the suspected breach, and
- (c) for the purposes of paragraph 6(1)(d), the time the proposals for change are made,

the "**Commissioner**": see paragraph 1(2),

the "**Committee**" means the Sark Policy and Finance Committee,

"**member**": see section 21A of this Law, and

"**Speaker**" include the Deputy Speaker.

**Amendment.**

18. The Chief Pleas may, by Ordinance, amend –

- (a) this Schedule as they see fit,

(b) any other provision of this Law for the purposes of giving effect to –

(i) this Schedule, as from time to time amended,  
and

(ii) any code of conduct."