

ISLAND OF SARK

**EXTRAORDINARY MEETING of the CHIEF PLEAS to be held on
WEDNESDAY 29th AUGUST 2012 at 7.00pm in the ASSEMBLY ROOM**

AGENDA

1. To APPROVE the MINUTES of the MIDSUMMER MEETING held on the 4th July 2012.
2. MATTERS ARISING from the Midsummer Meeting of Chief Pleas.
3. QUESTIONS Not Related to the Business of the Day.
4. To CONSIDER a Report from the GENERAL PURPOSES and ADVISORY COMMITTEE entitled "Appointment of Temporary Chief Secretary".
5. To CONSIDER a Report from the HARBOURS and PILOTAGE COMMITTEE entitled "Amending The Harbours (Sark) Ordinance, 2011" and to APPROVE the Ordinance entitled "The Harbours (Sark) (Amendment) Ordinance, 2012".
6. To CONSIDER a Report from the TOURISM COMMITTEE entitled "Accommodation Permits Legislation" and to APPROVE the Ordinance entitled "The Tourism (Sark) (Amendment) Law, 2012 (Commencement) Ordinance, 2012" and to:

LAY BEFORE Chief Pleas the Sark Statutory Instrument 2012 No. 1 entitled "The Tourism (Sark) (Accommodation Permits) Regulations, 2012".

7. LAID BEFORE: To CONSIDER a Report from the GENERAL PURPOSES and ADVISORY COMMITTEE entitled "The Republic of Guinea-Bissau (Restrictive Measures) (Sark) Ordinance, 2012".

15th August 2012

Lt. Col. R.J. Guille MBE
Seneschal and President of Chief Pleas

NOTES:

Anyone wishing to see any of the Reports may do so in the Chief Pleas Committee Office, during office opening hours; copies may be obtained from the Committee Secretary. The Agenda, Reports and Supporting Papers may also be seen on the Sark Government Website at www.gov.sark.gg

GENERAL PURPOSES & ADVISORY COMMITTEE **Report with proposition to Extraordinary Chief Pleas, 29th August 2012**

APPOINTMENT OF TEMPORARY CHIEF SECRETARY

At its Christmas 2012 meeting (18th January ref: 12.8), Chief Pleas agreed to the appointment of Mrs Belinda Crowe to review Sark's administration. The Review was conducted over the following five months and involved a stay in Sark and the gathering of opinion from residents, Conseillers, and a wide range of people with an interest in the Island. The completed report was circulated to every household in Sark on the 28th May 2012. On 7th June the Committee met with Conseillers to discuss the Report followed by a public meeting with Lord McNally, Minister of State at the Ministry of Justice, who gave his support to the further reform of Sark's administration.

At the Midsummer Chief Pleas (4th July ref: 0.12), the Chairman of GP&A announced a workshop for the members of the Committee on 10th July at Government House with senior civil servants from the other Crown Dependencies *"to discuss the implementation of the Belinda Crowe Report and how we consult effectively with the people of Sark"*. It was also announced (4th July ref: 0.13), that *"work is being done to recruit an interim civil servant and as soon as we have information on this, including cost, we shall be consulting with members of Chief Pleas."*

Following the workshop, the Committee held an information meeting with Conseillers on 12th July in order to discuss the workshop and what immediate steps should follow. A decision was taken to hold a public meeting as soon as possible to gauge opinion on the Report and particularly the possible appointment of an interim civil servant to begin the process of gradual implementation of the Review.

Over one hundred residents packed the Island Hall on 25th July at the meeting organised by the Committee and chaired by Conseiller Steve Taylor. The general consensus of the meeting was supportive of Belinda Crowe's recommendations and that steps should be taken to find a suitable interim civil servant for a term of 6 months, despite some concerns about how such support should be financed. On 27th July the Administrations of Guernsey, Jersey and the Isle of Man circulated a job description seeking suitable candidates for the role with a closing date of August 15th for applications.

It is suggested that interviews with possible candidates will be held in Guernsey on September 3rd and 4th subject to Chief Pleas giving its support to this initiative.

The Committee believes that it is imperative that Sark equips itself in order to deal effectively with the challenges it faces. Without change the present system of government is in danger of imploding due to the heavy workload that it imposes on Conseillers, particularly Committee Chairmen. In addition, Conseillers are too preoccupied with dealing with administration to have time for the vital task of planning for the Island's future. We have to have the means to set out a vision for the next 15 years or so and then have the ability to deliver that vision for the benefit of the people of Sark. It is an exciting challenge which we urge Conseillers to accept for the future good of the Island. The appointment of a temporary Chief Secretary to help start the process of reform is an important first step.

The Committee is budgeting for a figure of £35,000 to cover the salary costs plus £10,000 for expenses for a placement of six months. It is hoped that the Committee will be in a position to give further information on the recruitment process in a verbal report to Chief Pleas.

Proposition –

That Chief Pleas authorises the General Purposes and Advisory Committee to take all necessary steps to recruit a Temporary Chief Secretary for a term of six months and agrees to the appointment of a suitable candidate once the recruitment process has been concluded.

**Conseiller Charles Maitland
Chairman, General Purposes & Advisory Committee**

APPENDIX to ITEM 4

Person specification for Sark Interim Civil Service support

Brief Description

The post holder will provide administrative support to Chief Pleas, as well as beginning the process of establishing civil service support and helping Chief Pleas in defining the key strategic priorities for the Island and a plan for their implementation.

The role will be extremely varied dealing from small but essential issues such as setting up a working office, helping define the corporate governance arrangement for the Island and helping the government of Sark take forward appropriate recommendations from the recent independent report on its administrative and executive support arrangements.

The post holder will initially be working on his/her own for a significant amount of time. However, there will be support and advice from officials in Guernsey, the UK, Jersey, Isle of Man and Alderney should it be required.

Duration

Initially 4 months, with the possibility of extension

Start Date

September/October 2012

Skills and experiences

The Post holder will be an experienced civil servant at the senior middle manager level, who has the following skills and experiences:

- Significant experience of policy creation.
- Strong project management skills, creating strategies and seeing them through to implementation
- A strong understanding/experience of corporate governance, strategic planning and public consultations.

Competencies

The post holder will be expected to demonstrate the following competencies:

Delivering results

Assure delivery through effective identification, planning and management of timeliness, people, risk, cost and quality requirements, including:

- Uses initiative to identify opportunities, explore alternatives and pursue solutions
- Shows persistence and determination in striving to achieve objectives
- Takes responsibility for ensuring work is done efficiently and to a high standard
- Takes a pragmatic approach to achieving objectives, responding in a flexible way to changing situations and requirements
- Plans ahead taking account of wider requirements and the need for continuity

Using Evidence to Make Decisions

Make decisions based on the analysis of the evidence available, including:

- Uses a wide range of sources to gather information and explore alternatives
- Takes steps to clarify information and check assumptions before deciding on a course of action
- Applies critical analysis to identify and evaluate options
- Makes good use of past experience to assess a situation and take action
- Demonstrates confidence in exercising judgement to determine the best way forward
- Thinks flexibly, considering a range of diverse ideas, perspectives and solutions

Managing yourself and self reliance

Apply a high level of self awareness in order to develop and maintain your skills and knowledge as well as cope with the demands of the role, including:

- Maintains flexibility and a sense of perspective by taking a balanced, evidence-based view of events
- Exercises self-control to remain composed and constructive when faced with frustrating or distressing circumstances
- Maintains a calm, rational approach when the social demands of the situation are complex and challenging
- Balances self-confidence with openness to feedback and a commitment to self development

Communicating and influencing

Adapt how and what you communicate in order to influence diverse audiences, including:

- Tailors approach based on recognising how to gain the co-operation and respect of different groups and individuals
- Works closely with key stakeholders to keep them informed and involved
- Plays an active role in facilitating shared understanding among groups from diverse backgrounds
- Influences plans and decisions by contributing views and input based on understanding of the context
- Shows confidence by challenging others' views and decisions in a firm but constructive manner
- Influences by making good use of own and other people's contact networks

HARBOURS & PILOTAGE COMMITTEE

Report with proposition to Extraordinary Chief Pleas, 29th August 2012

AMENDING THE HARBOURS (SARK) ORDINANCE 2011

Members will recall that, at the Christmas Chief Pleas on 18th January 2012 (ref: 11.9), the Committee requested the approval of the house to amend the Harbours (Sark) Ordinance, 2011 to strengthen the control of the Harbourmaster and to allow an option for Chief Pleas to raise charges related to harbour facilities and services and crane charges by commercial users. These are currently paid by agreement with operators, and enable the budget of the Committee to be run as almost neutral, thereby requiring little, if any, financial support from the tax payer.

The intention was to bring the proposed amendments to the Michaelmas meeting but recent events have made it imperative that the legislation is amended as soon as possible. Over the past few weeks the Committee has been engaged in correspondence with those running trips to the gardens on Brecqhou, seeking their agreement to provide basic information on sailing times and passenger numbers, necessary to ensure passenger safety. The Committee has also sought payment of a small charge for harbour services, commensurate with that requested from, and paid by, other operators. Unfortunately, this operator has refused to engage constructively with the Committee on these issues, and instead has pointed to a lack of statutory authority to enforce these requests for co-operation on safety matters, and payment. This correspondence is available for members of Chief Pleas to view if they wish.

We are advised by the Law Officers of the Crown that, although the Harbour Committee has control of the harbours and other areas under the 2011 Ordinance, specific powers, offences and penalties to enforce that control are lacking – they have never been needed before. In other words, as matters stand the Committee cannot enforce its requests for information and co-operation, requests that it considers necessary to ensure that the safety of passengers is protected. This state of affairs cannot, in the view of the Committee, be allowed to continue.

The Committee has no appetite for further legislation and wished to address this difficulty by agreement. Unfortunately, this has proved impossible; and meanwhile, passenger safety continues to be put at risk unnecessarily. As such, the Committee considers that it has no choice but to propose that the Ordinance be amended to strengthen the provisions relating to control of the harbours.

The other amendments are those which Chief Pleas agreed at the Christmas 2012 meeting and the Committee is taking this opportunity to bring them forward so that they are all contained in one amending Ordinance.

For the same reason the issue of charges is also brought now in this amending Ordinance. Proposals under section 7B will enable the Committee to continue to negotiate and agree charges for harbour services and crane services but will also enable Chief Pleas to decide charges by resolution if this is deemed necessary for any reason.

Proposition –

The Chief Pleas approves the Harbours (Sark) (Amendment) Ordinance 2012

**Conseiller Janet Guy
Chairman, Harbours & Pilotage Committee**

ORDINANCE OF THE CHIEF PLEAS

ENTITLED

The Harbours (Sark) (Amendment) Ordinance, 2012

THE CHIEF PLEAS OF SARK, in pursuance of their Resolutions of the 18th day of January, 2012 and the 29th day of August, 2012 and in exercise of the powers conferred upon them by sections 37 and 40 of the Reform (Sark) Law, 2008^a and of all other powers enabling them in that behalf, hereby order:-

Amendment of 2011 Ordinance.

1. (1) The Harbours (Sark) Ordinance, 2011 is amended as follows.

(2) At the end of section 1, insert the following subsections –

"(3) Without prejudice to the generality of the foregoing the Committee may give directions to the master, owner or operator of a vessel-

(a) to provide it, within a specified period, with specified information (including, but not limited to, sailing times) relating to voyages to and from La Maseline Harbour, Le Creux Harbour, the slipway between Le Creux and La Maseline, or Havre Gosselin ("the Harbours") by the vessel, and

^a Order in Council No. V of 2008; amended by No. VI of 2008 and No. XXVII of 2008

(b) in the case of a vessel licensed to carry more than 12 passengers operating to or from any of the Harbours –

(i) to provide passenger numbers and other specified passenger information within a specified period before entering or leaving the Harbours, and

(ii) to take such steps as the Committee considers necessary to protect the safety of passengers embarking or disembarking, or waiting to embark or disembark, the vessel within the Harbours.

(4) For the avoidance of doubt, directions under subsection (3) may specify conditions with which the master, owner, or operator must comply for the vessel to enter or leave the Harbours, to berth in the Harbours, or to embark or disembark passengers in the Harbours, as the case may be.

(5) The Committee may authorise the Harbourmaster to exercise some or all of its powers under subsection (3)."

(3) Immediately after section 1, insert the following sections -

"Parking of vessels and trailers.

1A. No person may, without the permission of the Harbourmaster, park a vessel or trailer on land within the Harbours.

Harbourmaster's power to direct.

1B. (1) The Harbourmaster may direct the master, owner or operator of a vessel in respect of whether, when and how the vessel may enter, leave and berth within the Harbours.

(2) The Harbourmaster may direct one or more persons, or all persons, not to enter one or more of the Harbours, or immediately to leave one or more of the Harbours (as the case may be), if in his opinion such a direction is necessary in the interests of safety; provided that such a direction must be withdrawn as soon as the Harbourmaster is satisfied that it is safe to do so.

(3) The Harbourmaster may direct the owner or person in charge of any vessel or trailer parked in contravention of section 1A to remove it, either immediately or within a specified period.

(4) The Harbourmaster may direct the master of any vessel to remove it, either immediately or within a specified period, from any place in the Harbours, or from within the approaches of Le Creux Harbour, in the interests of safety or if, in his opinion the vessel is causing an obstruction to navigation, or impeding the efficient operation of any of the Harbours.

(5) The Harbourmaster may direct the owner or person in charge of any tractor, trailer, vessel, or any other object or garbage left in any of the Harbours, or in the area between La Maseline Harbour and Le Creux Harbour extending up harbour hill and ending in a parallel line with the most western end of the water tanks situated on the south side of harbour hill, to remove it, either immediately or within a specified period, if in the opinion of the Harbourmaster it is –

(a) impeding the efficient operation of any of the

Harbours,

- (b) giving rise to a contravention of this Ordinance or any other enactment, or
- (c) an unacceptable risk to public safety,

or it is likely to do or be so if not removed."

(4) For section 5(1), substitute –

"(1) Any person aggrieved by a decision –

- (a) of the Committee or Harbourmaster to give directions under section 1(3)(b)(ii), or to specify conditions in such directions, or
- (b) of the Committee to refuse an application under section 4(1), or to impose a condition or conditions when granting such an application,

may appeal therefrom to the Court."

(5) In paragraph (b) of section 5(3), after "Committee" insert "or the Harbourmaster (as the case may be)", and for paragraph (a) of section 5(4), substitute –

- "(a) set the decision aside and, if the Court considers it appropriate to do so, remit the matter to the Committee or Harbourmaster (as the case may be) with such directions as the Court thinks fit, or"

(6) For section 7, substitute the following sections –

"Power to remove vessels, trailers etc.

7. (1) If a person to whom a direction has been issued under section 1B(3), (4) or (5) does not cause the removal of the vessel, trailer, tractor or other object or garbage in question within the period specified (if any), or otherwise within a reasonable time, the Harbourmaster may, subject to subsections (3) and (4), cause it to be removed.

(2) In the case of a vessel berthed, moored or anchored in contravention of section 3(a) or (b), the Harbourmaster may, subject to subsections (3) and (4), cause that vessel to be removed to and anchored, moored or berthed in such place and in such manner as the Harbourmaster thinks fit.

(3) The Harbourmaster may only cause a vessel, trailer, tractor or other object to be removed under subsection (1) or (2) after –

(a) notifying the person to whom the direction has been issued, or the master, operator or owner, as the case may be ("**the relevant person**"), of when the removal will take place and the place to which the vessel, tractor or other object will be moved, and

(b) affording the relevant person the opportunity to remove it himself.

(4) Subsection (3) does not apply where, in all the circumstances, it would not be reasonably practicable or otherwise appropriate for the relevant person to be notified before the removal or

afforded that opportunity; in which case that person must be notified of the removal and of the location of the vessel, tractor or object as soon as reasonably practicable thereafter.

Exclusion of liability in respect of power to remove.

7A. (1) Subject to subsection (2), no person is to be –

(a) liable in damages, or

(b) where an individual, personally liable in any civil proceedings,

in respect of anything done or omitted to be done under section 6 or 7, unless the relevant act or omission was done or omitted to be done in bad faith.

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

Charges for use of cranes and for harbour services.

7B. (1) There shall be payable –

(a) for the use of a crane (including the hiring of crane operators) at any of the Harbours, and

(b) in respect of harbour services provided by or on behalf of the Harbourmaster or the Committee,

charges at such rates as Chief Pleas may from time to time by resolution determine.

- (2) A resolution passed under subsection (1) may –
 - (a) determine different rates for different classes or descriptions of vessels, vehicles, trailers, containers or goods, for different facilities and for different circumstances generally,
 - (b) empower the Committee, in its absolute discretion in any particular case, to determine which of two or more alternative charges shall be payable,
 - (c) exempt any person or class of persons from all or any charges, and
 - (d) be varied or revoked by a subsequent resolution so passed.

- (3) In this section, "**harbour services**" means -
 - (a) the provision of assistance at the Harbours with the berthing and tying up of passenger boats, the embarkation and disembarkation of passengers, and the discharge, offloading and collection of cargo, and
 - (b) such other services relating to the use of the Harbours and their facilities as may be specified

by resolution of Chief Pleas from time to time.

(4) In this section and in section 7B, "crane" includes all equipment related to the normal use of a crane.

(5) In the absence of a resolution of Chief Pleas determining charges payable in respect of a service, the Committee may agree, or continue to agree (as the case may be) the charges to be paid for that service with users of that service.

Payment and recovery of charges.

7C. (1) Any charges payable pursuant to a resolution under section 7B(1) may be recovered as a civil debt due to Chief Pleas from the person by whom, or on whose behalf –

- (a) use of the crane concerned, or
- (b) provision of the harbour service concerned,

was requested, or from any agent of that person.

(2) For the avoidance of doubt, subsection (1) is without prejudice to the power of the Committee to recover expenses under section 8."

(7) In section 8, for "simple contract" substitute "civil" in both places, and in paragraph (a) of subsection (1), after "exercise by" and "conferred on" insert "it or" in both places.

(8) After section 8(2) insert the following subsection –

"(3) Without prejudice to subsection (1), the Committee

may recover as a civil debt, from a person to whom a direction has been issued under section 1B(3), (4) or (5), the amount of any expenses reasonably incurred by it arising, directly or indirectly, out of the removal of the vessel, trailer, tractor or other object or garbage in question under section 7(1).".

(9) After section 10, insert the following section –

"General Regulations.

10A. (1) The Committee may, by regulations made under this section, make any provision not inconsistent with this Ordinance as to the conduct of persons in the Harbours.

(2) Without prejudice to the generality of subsection (1), the Committee may by regulations make provision for the removal of articles and substances from any part or parts of one or more of the Harbours."

(10) In section 11(1) –

(a) immediately before paragraph (a) insert a new paragraph –

"(za) contravenes section 1A," and

(b) delete from "for the time being" to the end of the subsection.

(11) Immediately after section 11(1), insert the following subsections –

"(1A) A person who contravenes, or who otherwise fails to comply with, directions given or made under section 1(3) or 1B is guilty of an offence and liable, on conviction by the Court, to a fine not exceeding level 4 on the uniform scale, or to a term of imprisonment not exceeding one month, or to both.

(1B) A person who deposits garbage on land within the Harbours, other than in a receptacle provided for that purpose by the Harbourmaster or a Committee of Chief Pleas, is guilty of an offence and liable, on conviction by the Court, to a fine not exceeding level 1 on the uniform scale."

(12) After section 11, insert the following sections –

"General provisions as to regulations.

11A. Regulations made under this Ordinance –

- (a) may make different provision for different cases and circumstances,
- (b) may prohibit any act or omission without the permission of the Committee or the Harbourmaster,
- (c) must be laid before a meeting of Chief Pleas as soon as possible after being made; and if at that meeting or the next Chief Pleas resolve that the regulations be annulled, they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations, and

- (d) may be varied or revoked by subsequent regulations so made.

Permissions, directions, and prohibitions.

11B. (1) Any permission, direction or prohibition of the Committee or the Harbourmaster under, or for the purposes of, any provision of this Ordinance may be –

- (a) given or imposed either generally or in relation to specified descriptions of objects, persons, cases or circumstances, or in relation to a particular object or person,
- (b) given or imposed either unconditionally or subject to such conditions as the Committee, or, as the case may be, the Harbourmaster, thinks fit,
- (c) withdrawn by the Committee or, as the case may be, by the Harbourmaster, at any time.

(2) Any such permission, direction or prohibition –

- (a) may be given, imposed or withdrawn in such manner as the Committee or, as the case may be, the Harbourmaster, considers appropriate, and
- (b) without prejudice to the foregoing, shall be conclusively presumed to have been so given, imposed or withdrawn if it is given, imposed or withdrawn in such manner as the Committee

may prescribe by regulations made under this section."

(13) In section 12, number the existing text (1), and at the appropriate place insert the following definition –

"**uniform scale**" means the uniform scale for the time being in force under the Uniform Scale of Fines (Sark) Law, 1989 (as amended);".

(14) At the end of section 12 insert the following subsection –

"(2) The Interpretation (Guernsey) Law, 1948 shall apply to the interpretation of this Ordinance as if it were an enactment in force in the Island of Guernsey."

Citation and commencement.

2. This Ordinance may be cited as the Harbours (Sark) (Amendment) Ordinance, 2012, and shall come into force on the 30th day of August, 2012.

TOURISM COMMITTEE

Report with proposition to Extraordinary Chief Pleas, 29th August 2012

ACCOMMODATION PERMITS LEGISLATION

The Ordinance approved at the Michaelmas meeting on 5th October 2011 (Minutes: 5.7 & 5.8), was later declared potentially ultra vires by the Law Officers. St. James' Chambers subsequently drafted a Projet de Loi which not only achieves the same changes as included in the Ordinance but also gives the Committee the opportunity to further change accommodation permit arrangements in future by Ordinance or Regulation. This was approved by Christmas Chief Pleas on 18th January 2012 (Minutes 5.1-5.4 refer), and forwarded to the Privy Council and subsequently approved on 10th July.

The Law was registered in the Royal Court on 27th July 2012 and the way is now clear for Chief Pleas to approve a commencement Ordinance for the Tourism (Sark)(Amendment) Law, 2012.

It was anticipated that the legislation would be brought to the Michaelmas meeting on 3rd October and St. James' Chambers has provided accompanying explanatory Regulations. It is recommended that the Regulations are still made as planned so there is no doubt as to the period of validity of the existing permits or the date up until which applications for 2013 can be made.

Proposition –

That Chief Pleas approves the Tourism (Sark)(Amendment) Law, 2012 (Commencement) Ordinance, 2012 together with The Tourism (Sark)(Accommodation Permits) Regulations, 2012.

**Conseiller Sandra Williams
Chairman, Tourism Committee**

The Tourism (Sark) (Amendment) Law, 2012 (Commencement) Ordinance, 2012

THE CHIEF PLEAS OF SARK in exercise of the powers conferred on them by section 4 of the Tourism (Sark) (Amendment) Law, 2012^a hereby order:-

Commencement of Law.

1. The Tourism (Sark) (Amendment) Law, 2012 shall come into force on the 29th August, 2012.

Citation.

2. This Ordinance may be cited as the Tourism (Sark) (Amendment) Law, 2012 (Commencement) Ordinance, 2012.

^a Approved by the Chief Pleas of Sark on the 18th January, 2012.

SARK STATUTORY INSTRUMENT

2012 No. 1

**The Tourism (Sark) (Accommodation Permits)
Regulations, 2012**

<i>Made</i>	<i>7th August, 2012</i>
<i>Coming into operation</i>	<i>29th August, 2012</i>
<i>Laid before the Chief Pleas</i>	<i>29th August, 2012</i>

THE TOURISM COMMITTEE OF THE CHIEF PLEAS OF SARK, in exercise of the powers conferred on it by sections 10(3) and 20 of the Tourism (Sark) Law, 1982^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Purpose of the Regulations.

1. These Regulations make transitional provision relating to accommodation permits in force immediately before the commencement of the Tourism (Sark) (Amendment) Law, 2012^b which changes the period of validity of accommodation permits and the date by which applications for the renewal of the same are made to the Committee.

^a Ordres en Conseil Vol. XXVII p. 576; as amended by Ordres en Conseil Vol. XXIX, p. 488 and the Tourism (Sark) (Amendment) Law, 2012, approved by the Chief Pleas of Sark on 18th January, 2012.

^b Approved by the Chief Pleas of Sark on 18th January, 2012.

Transitional provision relating to 2012 accommodation permits.

2. For the avoidance of doubt, the period of validity of an accommodation permit in force immediately before the commencement of these Regulations is extended up to and including the 28th day of February, 2013.

Interpretation.

3. (1) In these Regulations, unless the context requires otherwise -

"enactment" means any Law, Ordinance or subordinate legislation,

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect,

and other expressions have the same meanings as in the Tourism (Sark) Law, 1982.

(2) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of these Regulations.

(3) Any reference in these Regulations to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation and commencement.

4. These Regulations may be cited as the Tourism (Sark) (Accommodation Permits) Regulations, 2012 and shall come into force on the 29th August, 2012.

^c Ordres en Conseil Vol. XIII, p. 355.

Dated this 14th day of August, 2012

A handwritten signature in cursive script, appearing to read "S. Williams".

S. WILLIAMS

Chairman of the Tourism Committee of the Chief Pleas of Sark

For and on behalf of the Committee

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make transitional provision relating to accommodation permits in force immediately before the commencement of the Tourism (Sark) (Amendment) Law, 2012 ("2012 Law"). The 2012 Law changes the expiry date for the validity of accommodation permits issued by the Tourism Committee under the Tourism (Sark) Law, 1982 from 31st December in each year to the last day of February in each year. The purpose of the changes are so that renewals of accommodation permits are made outside of the busy Christmas period.

These Regulations extend, for the avoidance of doubt, the period of validity of 2012 accommodation permits in force when the 2012 Law comes into force, until the last day of February, 2013.

These Regulations come into force on the 29th August, 2012.

GENERAL PURPOSES & ADVISORY COMMITTEE

Report to the Extraordinary Chief Pleas, 29th August 2012

**THE REPUBLIC OF GUINEA-BISSAU
(RESTRICTIVE MEASURES)(SARK) ORDINANCE, 2012**

The above Ordinance has been approved by this Committee under the provisions of the Reform Law. HM Procureur has certified that early enactment by the Committee was necessary in the public interest.

In the case of such urgent legislation, section 41(4) of the Reform Law provides that such Ordinances should be laid before a meeting of Chief Pleas as soon as possible and in any event within four months of the Order made by this Committee in order to continue to have effect.

Conseiller Charles Maitland
Chairman, General Purposes & Advisory Committee

The Republic of Guinea–Bissau (Restrictive Measures)

(Sark) Ordinance, 2012

THE GENERAL PURPOSES AND ADVISORY COMMITTEE, in exercise of the powers conferred on the Chief Pleas by sections 1 and 4 of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994^a and on the Committee by section 41 of the Reform (Sark) Law, 2008^b, and of all other powers enabling the Chief Pleas in that behalf, hereby orders:-

Application and infringement of EU Regulation.

1. (1) Council Regulation (EU) No. 377/2012 of the 3rd May, 2012^c concerning restrictive measures in view of the situation in the Republic of Guinea-Bissau ("**the EU Regulation**") is, subject to such exceptions, adaptations and modifications as may be specified in this Ordinance, applicable in Sark in all respects as if Sark were a Member State.

(2) A person who infringes, or causes or permits any infringement of, any prohibition in, or requirement of, the EU Regulation is guilty of an offence.

Modification of Regulation.

2. The EU Regulation in its application to Sark is modified as follows -

- (a) Articles 1(e), 9, 12 and 13 shall not apply,
- (b) references to the competent authorities of, or in, the Member States shall be construed as references to the Policy Council,

^a Ordres en Conseil Vol. XXXV(1), p. 65.

^b Order in Council No. V of 2008 as amended by Order in Council Nos. VI and XXVII of 2008, No. XIV of 2010 and No. XII of 2011.

^c OJ L 119, 4.5.2012, p.1.

- (c) references to the obligation of a Member State to inform or notify shall be construed as references to the obligation of the Policy Council to inform or notify one of Her Majesty's Principal Secretaries of State,
- (d) references to the authorising of the release of certain frozen funds or economic resources shall be construed as references to the issuing by the Policy Council of a licence to release those frozen funds or economic resources ("**a Policy Council licence**"),
- (e) references to the Member State concerned shall be construed as references to the Policy Council,
- (f) references to the Union shall be construed as including Sark,
- (g) references to the territory of the Union and its airspace shall be construed as including Sark, its airspace and the territorial waters adjacent thereto, and
- (h) references to the law of a Member State shall be construed as including the law of Sark.

Appeals against decisions of Policy Council.

3. (1) A person aggrieved by a decision of the Policy Council made under the EU Regulation, or a decision of the Policy Council not to exercise any of its powers under the EU Regulation, may appeal to the Ordinary Court against that decision on the grounds that -

- (a) the decision was ultra vires or there was some other error of law,
- (b) the decision was unreasonable,

- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(2) On an appeal under this section the Ordinary Court may -

- (a) set the decision of the Policy Council aside and, if the Court considers it appropriate to do so, remit the matter to the Policy Council with such directions as the Court thinks fit, or
- (b) confirm the decision, in whole or in part.

(3) On an appeal under this section the Ordinary Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision in question, pending the determination of the appeal.

Information.

4. The Schedule has effect in order to facilitate the obtaining, by or on behalf of the Policy Council, of information for the purpose of ensuring compliance with the EU Regulation.

Failure to provide information or to co-operate.

5. A person who, without reasonable excuse, fails to comply with any obligation to provide information to or co-operate with the Policy Council in the exercise of any power to request or demand the provision of information, or the cooperation of any person, under any article of the EU Regulation is guilty of an offence.

Furnishing of false information etc.

6. (1) A person who in purported compliance with any article of the EU Regulation, or for the purposes of obtaining a Policy Council licence, intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, is guilty of an offence.

(2) Any Policy Council licence granted in connection with the application for which a false statement was made or a false document or false information or explanation was furnished is void as from the time it was granted.

Failure to comply with terms of a Policy Council licence.

7. Any person who, having acted under the authority of a Policy Council licence, fails to comply with any of the requirements or conditions to which the Policy Council licence is subject is guilty of an offence, unless -

- (a) the Policy Council licence had previously been modified by the Policy Council without that person's knowledge, and
- (b) the alleged failure to comply would not have been a failure had the Policy Council licence not been so modified.

Penalties and proceedings.

8. (1) A person guilty of an offence under -

- (a) section 1(2), 5, 6 or 7, or
- (b) paragraph 2(b) or (c) of the Schedule,

is liable -

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

- (ii) on summary conviction, to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(2) A person guilty of an offence under paragraph 2(a) or 3(2) of the Schedule is liable on summary conviction to imprisonment for a term not exceeding three months, to a fine not exceeding level 5 on the uniform scale, or to both.

(3) Where a body corporate is guilty of an offence under this Ordinance, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where the affairs of a body corporate are managed by its members, subsection (3) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Certain provisions of Customs and Excise Law applicable.

9. (1) Section 55 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972^d applies to the detention of a person for an offence under section 1 as it applies to the detention of a person for an offence under customs or excise legislation.

(2) Sections 61 to 65 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 apply in relation to offences, penalties

^d Ordres en Conseil Vol. XXIII, p. 573; Vol. XXXIII, p. 217; and Order in Council No. X of 2004.

and proceedings for offences under this Ordinance as they apply to offences, penalties and proceedings for offences under customs or excise legislation.

Interpretation.

10. (1) In this Ordinance, except where the context requires otherwise-

"advocate" means an advocate of the Royal Court of Guernsey,

"Bailiff" includes the Bailiff, the Deputy Bailiff, a Lieutenant Bailiff, a Juge-Délegué and a Judge of the Royal Court,

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

"customs or excise legislation" means those provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972 and any other enactment for the time being in force relating to customs or, as the case may be, excise,

"enactment" includes a Law, an Ordinance and any subordinate legislation,

"EU Regulation" has the meaning given by section 1,

"Judge of the Royal Court" means the office of that name established by section 1 of the Royal Court (Reform) (Guernsey) Law, 2008^e,

"Ordinary Court" means the Royal Court of Guernsey sitting as an Ordinary Court which, for the purposes of this Ordinance, may be validly constituted by the Bailiff sitting alone,

"Policy Council" means the States of Guernsey Policy Council,

^e Order in Council No. XXII of 2008.

"Policy Council licence": see section 2(d),

"subordinate legislation" means any regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect, and

"uniform scale of fines" means the scale of fines from time to time in force under the Uniform Scale of Fines (Sark) Law, 1989^f,

and other terms used in this Ordinance and the EU Regulation shall have the same meaning as in the EU Regulation.

(2) A reference in this Ordinance to an enactment or to the EU Regulation is a reference thereto as from time to time amended, repealed and re-enacted (with or without modification), extended or applied.

Citation.

11. This Ordinance may be cited as the Republic of Guinea-Bissau (Restrictive Measures) (Sark) Ordinance, 2012.

Commencement.

12. This Ordinance shall come into force on the 3rd August, 2012.

^f Ordres en Conseil Vol. XXXI, p. 320; as amended by the Uniform Scale of Fines (Sark) (Amendment) Ordinance, 2006.

SCHEDULE

Section 4

INFORMATION

1. (1) The Policy Council (or any person authorised by it for that purpose either generally or in a particular case) may request any person in or resident in Sark to furnish or produce to it (or, as the case may be, to that authorised person) such information and documents in his possession or control as the Policy Council (or, as the case may be, that authorised person) may require for the purpose of ensuring compliance with the EU Regulation; and a person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) No obligation of secrecy or confidence or other restriction on the disclosure of information to which any person may be subject, whether arising by statute, contract or otherwise, is contravened by reason of the disclosure by that person or by any of his officers, servants or agents of any information or document in compliance with this Schedule.

(3) Nothing in this Schedule compels the production by an advocate or other legal adviser of a communication subject to legal professional privilege; but an advocate or other legal adviser may be required to give the name and address of any client.

(4) Where a person is convicted of an offence under this Schedule of failing to furnish any information or produce any document, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(5) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any such document.

2. A person who -

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time is specified, within a reasonable time) to comply with a request made under this Schedule,
- (b) intentionally furnishes any false information, document or explanation, or recklessly furnishes any information, document or explanation which is false, to any person exercising his powers under this Schedule, or
- (c) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

is guilty of an offence.

3. (1) No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule shall be disclosed except -

- (a) with the consent of the person by whom the information was furnished or the document was produced: provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this item but such consent may instead be given by any person who is entitled to that information or to possession of that document in his own right,
- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced

or any person holding or acting in any office under or in the service of the Crown in respect of Sark,

- (c) on the authority of the Policy Council, to the European Commission, to any of the competent authorities listed in or under the EU Regulation or any annex thereto, or to one of Her Majesty's Principal Secretaries of State, for the purpose of assisting the Commission, that competent authority or that Principal Secretary of State to ensure compliance with the EU Regulation, or
- (d) for the purposes of the investigation, prevention or detection of crime or with a view to the instigation of, or otherwise for the purposes of, any criminal proceedings.

(2) A person who without reasonable excuse discloses any information or document in contravention of subparagraph (1) is guilty of an offence.