

GENERAL PURPOSES & ADVISORY COMMITTEE
Report with propositions to Michaelmas Chief Pleas, 1st October 2014

THE REFORM (SARK) LAW 2008 - AMENDMENTS

The Committee is anxious to ensure the Reform Law should fully reflect Sark's status as a modern democracy.

Part of the policy *Securing Sark's Future*, brought forward at the Christmas meeting at the start of the year, was to strengthen good governance with due regard to accepted democratic principles.

One result of working on *Securing Sark's Future Policy 2014* is the arrangement to restructure the Government agreed at the Extraordinary Meeting of Chief Pleas on 13th August (Ref: 5.3). The re-structuring evolved by applying good governance standards and sound democratic principles.

Further work (item 6 on the SSF2014 monitoring report) has already been identified within the Reform (Sark) 2008 legislation which needs to be addressed including, as acknowledged at the Easter Meeting of Chief Pleas on 30th April (Ref: 8.6), the manner in which certain appointments are to be made. Work on this is ongoing and requires a new appointments system to be put in place alongside legislative amendments. The Senior Administrator has been tasked with this for 2015.

One area within the Reform (Sark) 2008 Law which remains of concern gives the power of approval of the Sark Budget to the Office of the Lt. Governor (para 59(2)). It also gives to that office the power of approval over any other non-budgeted expenditure (para 61).

Annual Budget:

59. (1) *The Treasurer shall submit to the Chief Pleas at their Easter meeting audited accounts of the expenditure incurred for public purposes during the preceding financial year.*

(2) *The [Finance and Commerce Committee] shall, at a meeting in each financial year, present a Budget setting out the forecast costs during the next ensuing financial year of such public purposes as the Chief Pleas may by resolution have determined should be, or as are required by any enactment to be, provided or undertaken, and such Budget if approved by the Chief Pleas shall be submitted to the Lieutenant Governor for approval.*

NOTE

The words in square brackets in section 59(2) were substituted by the General Purposes and Finance Committee (Transfer of Functions) Ordinance, 2009 with effect from 1st November, 2009.

Approval of Lieutenant Governor.

61. *No expenditure shall be incurred otherwise than in accordance with the Budget, as approved pursuant to section 59, except with the consent of the Lieutenant Governor.*

NOTE

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These powers leave the Sark Government technically in an undemocratic position where a decision of Chief Pleas, made with due regard for democratic and good governance principles, could be overturned by an authority not answerable to the Sark electorate.

A not dissimilar situation arose when a proposed amendment in 2010, for the Lt. Governor to be responsible for setting the remuneration of the Seneschal, was put forward. This was found to be inappropriate and the power was given to Chief Pleas (through the GP&A Committee).

Whilst the powers under consideration have never been used or caused any problem they cannot be considered to be democratically acceptable. So while Chief Pleas is not able actually to change the law today, it can indicate its intention to do so while fully recognising its responsibility to the Crown for good governance in this as in any other area of government. It would also be ready to welcome expert scrutiny from the Office of the Lt. Governor for the purposes of the 2015 Budget.

Meanwhile, today Chief Pleas is debating the Budget with the aim of approving it. The GP&A Committee consider that it is vitally important that whatever is approved by Chief Pleas, provided that it is within the law should not, in future, be considered as conditional on subsequent approval by the Lt. Governor.

The GP&A Committee has brought this matter to the attention of the Lt. Governor earlier in the year and has kept the Ministry of Justice informed. We consider the best way forward is now to agree the proposition so that the Law Officers can be requested to draft an amendment to the legislation and return this to Chief Pleas for final approval at the next opportunity.

Proposition -

That Chief Pleas requests the Law Officers to draft an amendment to the Reform (Sark) Law, 2008 to remove the requirement for the Office of the Lt. Governor to approve the Sark budget and the requirement to approve non-budgeted expenditure.

Proposition as rewritten and amended at the Michaelmas Chief Pleas meeting

That Chief Pleas resolves that the Reform (Sark) Law, 2008 be amended to provide that the final approval of the budget and any non-budgeted expenditure rests with the democratically elected Chief Pleas with due regard to the principles of good governance and the Island's obligations to the Crown.

**Conseiller Andrew Bache
General Purposes & Advisory Committee**

WITH CHANGED PROPOSITION APPROVED AT THE MEETING