

**ADDENDUM - No. 2**

**Late Item for the Extraordinary Meeting  
of Chief Pleas – 16 February 2022**

Under the Provisions of Rule 12(11) of the Rules of Procedure of the Chief Pleas of Sark, the Speaker of Chief Pleas has waived the notice required under Rule 1(4) and allowed, by request of the Policy and Finance Committee, the following Item to be added to the Agenda:

- Item 6. To CONSIDER a Report from the POLICY and FINANCE COMMITTEE entitled "**Census (Sark) Ordinance 2022 & Census (Sark) (Amendment) Ordinance 2022**" and to confirm the Ordinance entitled "**The Census (Sark) Ordinance, 2022**" or to APPRIOVE the Ordinance entitled "**The Census (Sark) (Amendment) Ordinance, 2022**" (copies enclosed).

4 February 2022

Lt. Col. RJ Guille MBE  
Speaker of Chief Pleas

## **ITEM 06**

### **POLICY & FINANCE COMMITTEE**

**Report with Propositions to Extraordinary Chief Pleas, 16<sup>th</sup> February 2022**

### **CENSUS (SARK) ORDINANCE 2022 & CENSUS (SARK) (AMENDMENT) ORDINANCE 2022**

At the Easter meeting of Chief Pleas held on the 19<sup>th</sup> March 2021, the Assembly voted to instruct the Law Officers to prepare legislation to enable a census of Sark to take place.

The purpose of the Sark census is to allow Chief Pleas to understand the size and demographic of its population and so be able to make the necessary policy and financial decisions for the delivery of public services. A census has always been used to provide information that government needs to develop policies, plan and run public services, and allocate funding.

At the Midsummer meeting of Chief Pleas held on the 7<sup>th</sup> July 2021 the Assembly voted to approve Projet de Loi entitled "The Census (Sark) Law, 2021" which included provision relating to the procedure for taking the census in 2022. In designating the Census Area for the Ordinance, Brecqhou was excluded, on the basis that in general public services are not currently provided to Brecqhou. The Ordinance was approved by the Chief Pleas on 19<sup>th</sup> January 2022 and is in force.

Since the approval of the Census (Sark) Ordinance, 2022, a Conseiller who was not present at the meeting of 19<sup>th</sup> January 2022\* has raised the question of the exclusion of Brecqhou and wishes the matter to be reconsidered. The Committee has agreed to bring the matter before Chief Pleas for further consideration on the basis that the exclusion of Brecqhou was not expressly mentioned in any of the previous Reports to Chief Pleas and therefore might not have been at the forefront of Conseillers' minds in approving the terms of the Ordinance.

The Law Officers have advised that there is no reason in law why Brecqhou should not be excluded from the scope of the forthcoming census. However, if as a matter of policy, the exclusion is to be removed, an amendment to the existing Ordinance would be necessary; and the purpose of this Report is to ask Chief Pleas whether they would wish to amend the Ordinance approved at the Christmas meeting to that end.

The reason for carrying out a census, as clearly set out in previous reports, is to assist the government in the provision of public services. The purpose of assisting with such provision of services is justification for the potential interference with the human right of the right to private life of the individual that results from the mandatory collection of personal data. It was the Committee's view that such justification might not exist if services were not supplied. The only Sark-based service supplied to Brecqhou is the Sark Court, and the Greffier has advised that no hearing has taken place in respect of Brecqhou for over ten years. There are therefore potential human rights considerations.

Compliance with the requirement to complete a census form was another consideration, as was enforceability. The difficulty of access to Brecqhou, and lack of knowledge of its

occupancy, would make enforcement difficult. If compliance cannot be enforced, then the value of a mandatory census is lost.

It should be noted that exclusion from the Census in 2022 does not mean that Brecqhou could not be included in the census area for any future census should circumstances change.

The Committee therefore invites the Chief Pleas to consider whether to confirm the Ordinance which has already been approved; or to approve a further amendment Ordinance, appended, which would remove the exclusion of Brecqhou from the census area.

The preparation for the census is now well advanced, and any delay now will result in the census date of 27<sup>th</sup> April 2022 becoming unachievable and will be postponed until October 2022 at the earliest.

Chief Pleas are invited to approve proposition 1 if they wish to maintain exclusion of Brecqhou, or proposition 2 if they wish to amend the Ordinance so as to include Brecqhou in the Census Area.

**Proposition 1** -

**That Chief Pleas confirm the Census (Sark) Ordinance, 2022 as approved at the meeting of Chief Pleas on 19<sup>th</sup> January 2022.**

**Proposition 2** -

**That Chief Pleas approves the Census (Sark) (Amendment) Ordinance, 2022.**

**Conseiller John Guille  
Chairman, Policy & Finance Committee.**

# **The Census (Sark) Ordinance, 2022**

## ARRANGEMENT OF SECTIONS

1. Taking of census.
2. Forms.
3. Persons to make returns in respect of private dwellings.
4. Persons to make returns in respect of other residential establishments.
5. Particulars in returns.
6. Confidential returns.
7. Division of census area.
8. Census officers and enumerators.
9. Duties of Registrar and enumerators.
10. Information and delivery of return to enumerator.
11. Collection of returns.
12. Duties of enumerators after collection.
13. Duties of Registrar.
14. Instructions and directions to census officers and enumerators.
15. Replacement of census officer or enumerator.
16. Declaration on completion of duties.
17. Access to documents.
18. Custody of documents.
19. Interpretation.
20. Citation and commencement.

SCHEDULE 1: Persons in respect of whom returns are to be made.

SCHEDULE 2: Particulars to be stated in returns.

# **The Census (Sark) Ordinance, 2022**

**THE CHIEF PLEAS OF SARK**, in pursuance of their Resolutions of the 14<sup>th</sup> April, 2021 and the 17<sup>th</sup> November, 2021, and in exercise of the powers conferred on them by section 1 of the Census (Sark) Law, 2021<sup>a</sup>, and all other powers enabling them in that behalf, hereby order:

## **Taking of census.**

1. A Census shall be taken for the Census Area at midnight ending census day, and for that purpose returns shall be made by the prescribed persons in accordance with the Law and this Ordinance with respect to all living persons specified in column (2) of Schedule 1.

## **Forms.**

2. The forms to be used in connection with the Census shall be such as shall be issued by the Registrar.

## **Persons to make returns in respect of private dwellings.**

3. (1) Subject to subsections (2), (3) and (4) –
- (a) the householder, or joint householders, or
  - (b) in the absence of any such person capable of making a return, any person authorised to act on behalf of the householder or joint householders,

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<sup>a</sup> Order in Council No. X of 2021.

of each household occupying any dwelling to which column (1) of Group I in Schedule 1 applies shall make a return with respect to every person specified in column (2) of that Group.

(2) Where the obligation falls on more than one person, any one of those persons may make the return on behalf of the other persons on whom the obligation falls.

(3) Where the household consists of one person, that person shall make a return with respect to that household.

(4) Any person ("A") who is entitled under section 6 to make a confidential return, and who claims to do so in the manner prescribed by that section, shall, subject to the conditions so prescribed, be deemed to be the person by whom the return is to be made with respect to A.

**Persons to make returns in respect of other residential establishments.**

4. (1) Subject to subsections (2) and (3), every person ("A") specified in column (2) of Groups II or III in Schedule 1 shall make a return in respect of A.

(2) Where A is, for any reason, incapable of completing the form of return –

(a) if A is a person included in column (2) of Group II, the person in charge of the premises or vessel concerned shall make a return with respect to A, or in the case of a hotel, boarding house or lodging house may instead arrange for the return to be made by any relative or other person accompanying A,

(b) if A is a person specified in column (2) of Group III, the return may be made with respect to A by any other person capable of doing so on A's behalf.

(3) In the case of any premises or vessel mentioned in column (1) of Group II in Schedule 1, the person for the time being in charge of the premises or vessel shall make a return on the form issued by the Registrar in relation to the premises or vessel and shall state in that return the particulars contained in section 5(4).

**Particulars in returns.**

5. (1) A return made under section 3 shall state the particulars specified in Part I of Schedule 2 in addition to the particulars required in respect of each person under subsection (2).

(2) Subject to subsection (3), a return made under section 3 or section 4(1) shall state with respect to each person, other than a person making a confidential return under section 6, the particulars specified in Part II of Schedule 2.

(3) In the case of a visitor, the return need only state that the person is a visitor and the person's full name.

(4) The following particulars shall be stated in a return made under section 4(3) in relation to any premises or vessel mentioned in column (1) of Group II in Schedule 1 –

(a) in the case of premises, the names of all persons specified in column (2) of that Group and the number of usual residents, the address and nature of the premises, and the number of rooms in the premises,

- (b) in the case of a vessel, the names of all persons specified in column (2) of that Group, the number of usual residents, the name of the vessel, and its position at midnight ending census day.

**Confidential returns.**

6. (1) Any person aged 15 years or over on census day, who is not a prescribed person nor a person who lacks capacity within the meaning of the Capacity (Bailiwick of Guernsey) Law, 2020<sup>b</sup>, may make a confidential return if that person fulfils the conditions in this section in so far as they are applicable.

(2) A person wishing to make a confidential return ("**the applicant**"), or a person acting on the applicant's behalf, shall apply for a separate form of return –

- (a) to the enumerator when the enumerator attends to deliver the form of return to the person who would otherwise be required to make a return in respect of the applicant, or
- (b) if the applicant cannot reasonably obtain a form of return elsewhere, to the Registrar in person, not later than two days before census day.

(3) The enumerator or Registrar shall in that event issue a separate form of return and, if so requested, give any reasonably necessary explanation to enable the applicant to make a proper return.

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<sup>b</sup> Order in Council No. II of 2021.



- (4) The applicant shall enter on the separate form of return –
- (a) the required particulars in respect of the applicant specified in Part II of Schedule 2, and
  - (b) the address of the premises at which the applicant was present on census night,

and shall comply with any instruction contained in that form and applicable to the applicant.

(5) Where a person has elected to make a confidential return under this section but for any reason is incapable of making a return, then the return may be made on that person's behalf by any other person capable of doing so.

(6) The prescribed person shall enter on the form of return in respect of the applicant no particulars other than the applicant's name and the relationship of the applicant to the prescribed person.

**Division of census area.**

7. The Registrar shall divide the Census Area into enumeration districts.

**Census officers and enumerators.**

8. For the purpose of the Census –
- (a) the Registrar, with the approval of the Committee -
    - (i) may appoint one or more census officers to assist in the performance of the Registrar's duties, and

- (ii) shall appoint, for each enumeration district, a person who shall perform in that enumeration district the duties of an enumerator under this Ordinance, and
- (b) every census officer, enumerator and every person assisting the Registrar or an enumerator in the performance of their duties shall, before acting or performing any duties as such, sign an undertaking in such form as the Registrar may direct faithfully to perform the duties of census officer, enumerator or such person (as the case may be) under this Ordinance.

**Duties of Registrar and enumerators.**

9. (1) The Registrar shall enter in the enumeration books provided for the purpose of the Census such particulars as the Registrar considers appropriate, and shall furnish every enumerator with an enumeration book and sufficient forms.

(2) Every enumerator shall, within such period as may be directed by the Registrar, deliver to each prescribed person in the relevant enumeration district, or to a responsible person acting on behalf of such prescribed person, the appropriate form of return, and shall, upon so delivering the form, enter thereon and in the enumeration book such particulars as the Registrar may require.

(3) Every enumerator shall, if so requested, give any reasonably necessary explanation to enable a prescribed person to make a proper return.

**Information and delivery of return to enumerator.**

10. (1) Every prescribed person shall give to the enumerator such information as the enumerator may reasonably require for the performance of the enumerator's duties under this Ordinance; and every other person in respect of whom it is the duty of a prescribed person to make a return shall give to that prescribed person such information as the prescribed person shall reasonably require for that purpose.

(2) Every prescribed person, and every person who has elected to make a confidential return under section 6, shall –

(a) deliver the completed form of return to the enumerator, or

(b) place the completed form of return in the reply envelope provided and send it to the Registrar by post.

(3) A person sending a form of return by post under subsection (2)(b) must do so on the day after census day, or as soon as reasonably practicable thereafter (not being later than the date specified in the return).

**Collection of returns.**

11. (1) Subject to subsection (2), the enumerator shall, as soon as may be after census day, collect all forms of return delivered by the enumerator, or obtained by an applicant within the enumerator's enumeration district under section 6.

(2) Where a prescribed person or a person who has elected to make a confidential return under section 6, as the case may be, has sent the form of return by post under section 10(2)(b), or expresses an intention to do so, the

enumerator shall note that fact in the enumeration book.

**Duties of enumerators after collection.**

12. The enumerator shall –

- (a) enter in the enumeration book and in all forms of return collected by the enumerator such particulars as may be required by the Registrar, and
- (b) deliver to the Registrar the enumeration book and all forms of return duly completed and collected by the enumerator,

and shall do such other things relating to the census enumeration in the enumerator's district as may be required by the Registrar under this Ordinance.

**Duties of Registrar.**

13. The Registrar shall examine the enumeration books and the returns delivered to the Registrar, and where it appears that –

- (a) a return in respect of any private dwelling or other residential establishment has not been received,
- (b) any book or return is incomplete, or
- (c) any entry on a form of return is insufficient or is inconsistent with any other entry,

the Registrar may require the enumerator to ensure, by enquiry of any prescribed person or otherwise, the completion or correction of the book or return, within a

specified period, or the Registrar may make such enquiries of any prescribed person or otherwise, or may make such other arrangements as the Registrar thinks fit, for the purpose of obtaining the particulars which are required in order to comply with the Law and this Ordinance.

**Instructions and directions to census officers and enumerators.**

14. The Registrar may give instructions or directions, whether particular or general, for the due performance by the census officers or enumerators of their duties under this Ordinance, and any such instructions or directions shall be complied with by any census officer or enumerator to whom they are given.

**Replacement of census officer or enumerator.**

15. If it appears to the Registrar that a census officer or enumerator is unfit to perform the duties of census officer or enumerator, as the case may be, under this Ordinance, the Registrar may with the approval of the Committee appoint a replacement to perform those duties.

**Declaration on completion of duties.**

16. The Registrar may require a census officer or enumerator to make a declaration in writing that the declarant has properly and sufficiently performed the duties of the declarant under this Ordinance.

**Access to documents.**

17. A person having the custody of any forms of return, enumeration books or other confidential documents relating to the Census shall keep such forms, books and other documents in such manner as to prevent any unauthorised person having access thereto.

**Custody of documents.**

18. As soon as practicable after the preparation of the census report in

accordance with section 3(2) of the Law, the Registrar shall transmit to the Royal Court for preservation and secure storage all forms of return, enumeration books and other confidential documents relating to the Census.

**Interpretation.**

19. (1) In this Ordinance -

"**the Census**" means the census taken in accordance with the Law and this Ordinance,

"**the Census Area**" means the Island of Sark excluding the Island of Brecqhou,

"**census day**" means 27<sup>th</sup> April, 2022,

"**census night**" means the night of 27<sup>th</sup> April into 28<sup>th</sup> April, 2022,

"**the Committee**" means the Policy & Finance Committee of the Chief Pleas,

"**documents**" includes information recorded in any form (including, without limitation, information in an electronic communication and data held in electronic form),

"**dwelling**" includes any building or part of any building capable of use as living accommodation, and any tent, caravan, boat, vehicle, shed or other structure so used, and includes part of a dwelling,

"**enumerator**" means a person appointed under section 8 or 15,

"**householder**" in relation to a dwelling means a person who is usually

resident in that dwelling and either –

- (a) owns or rents the dwelling, or
- (b) is responsible for paying household bills and expenses there,

or both, and "**joint householder**" is to be interpreted accordingly,

"**the Law**" means the Census (Sark) Law, 2021,

"**prescribed person**" means a person required by section 3 to make a return in accordance with this Ordinance,

"**the Registrar**" means the person appointed as such under section 3(1) of the Law,

"**return**" means a form issued by the Registrar under section 2 for the purpose of making a return under this Ordinance,

"**visitor**" means a person whose usual place of residence is outside the Census Area and who is visiting the Census Area for the purpose of a holiday of less than three months, or for the purpose of working for, or seeking work of a duration, less than three months,

and other expressions shall have the same meaning as in the Law.

(2) For the purpose of this Ordinance, but without limitation, a person is regarded as usually resident in a dwelling in the Census Area (notwithstanding that the person also has a residence outside the Census Area) if the person has been resident in the Census Area for an average of, or exceeding, a period

of three months per year since the person first arrived in the Census Area.

**Citation and commencement.**

20. This Ordinance may be cited as the Census (Sark) Ordinance, 2022 and shall come into force on the day of its registration on the records of Sark.



SCHEDULE 1

PERSONS IN RESPECT OF WHOM RETURNS ARE TO BE MADE

Sections 3 and 4

(1)	(2)
Premises, vessel or other place in the Census Area	Persons
GROUP I	
Any dwelling occupied by a private household (whether consisting of one or more persons)	<p>(a) Every person who is usually resident in the dwelling,</p> <p>(b) every person, not usually resident in the dwelling, who spends census night in the dwelling,</p> <p>(c) every person who arrives at the dwelling at any time after midnight ending census day but before the returns with respect to the persons in the dwelling are collected, and who has not been included as present in any other return.</p>
GROUP II	
Any hotel, boarding house, lodging house, prison or other place of detention; any residential establishment not mentioned elsewhere in this Schedule;	Every person spending census night in the premises or vessel, and any other person who arrives at the premises or vessel after midnight on census day but before the returns with respect to the

and  any vessel.	persons in the premises or vessel are collected, and who has not been included as present in any other return.
GROUP III	
Any other place not included in the above groups.	Every person spending census night in any such place.

SCHEDULE 2  
PARTICULARS TO BE STATED IN RETURNS

Sections 5 and 10

PART I

1. The type of accommodation occupied by the household.
2. Whether the accommodation is owner-occupied or rented; if owner-occupied, whether it is owned outright or subject to a loan; if rented, the length of the lease and the period remaining and whether it is rented from a charitable trust, the employer of a household member, a relative or friend or other private landlord.
3. The name of each person in respect of whom a return is to be made under this Ordinance, and whether each such person is usually resident in the household or not usually resident but present on census night.

PART II

1. Full name.
2. Date of birth.
3. Sex.
4. Whereabouts on census night.
5. Educational and vocational qualifications.
6. Details of employment or self-employment or other occupation, whether full or part time.
7. Place of birth.
8. Date of first arrival in Census Area and total period of time spent there during previous five years.
9. Length of residence at current address.

10. Ethnicity.
11. Marital status.
12. Relationship to prescribed person.
13. General state of health and whether person has any physical or mental health conditions or illnesses lasting, or expected to last, for a period exceeding 12 months.
14. Whether any such conditions or illnesses limit daily activities.
15. Whether the person is involved in the care of another person other than a dependent child, and for how many hours per week.
16. Whether the person has private health insurance.

# **The Census (Sark) (Amendment)**

## **Ordinance, 2022**

**THE CHIEF PLEAS OF SARK**, in pursuance of their Resolution of the 16<sup>th</sup> February, 2022, and in exercise of the powers conferred on them by section 1 of the Census (Sark) Law, 2021<sup>a</sup>, and all other powers enabling them in that behalf, hereby order:-

### **Amendment of Ordinance.**

1. In section 19(1) of the Census (Sark) Ordinance, 2022<sup>b</sup>, in the definition of "**the Census Area**", the words "excluding the Island of Brecqhou" are repealed.

### **Citation and commencement.**

2. This Ordinance may be cited as the Census (Sark) (Amendment) Ordinance, 2022 and shall come into force on the date of its approval by the Chief Pleas.

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<sup>a</sup> Order in Council No. X of 2021.

<sup>b</sup> Sark Ordinance No. III of 2022.